

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

FIREPOWER DEBT GP INC., AS AGENT

Applicant

and

THEREDPIN, INC. and THEREDPIN.COM REALTY INC.

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, c.B-3, AS AMENDED, AND SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c.C.43, AS AMENDED

**JOINT SUPPLEMENTARY RECORD**

**(Motion For Direction Returnable October 22, 2018)**

October 15, 2018

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TO: **SERVICE LIST**

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**TAB**

**1**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
R.S.C. 1985, C.B-3, AS AMENDED, AND SECTION 101 OF THE *COURTS OF JUSTICE*  
*ACT*, R.S.O. 1990, C.C.43, AS AMENDED**

**BETWEEN:**

**FIREPOWER DEBT GP INC., AS AGENT**

**Applicant**

**-and-**

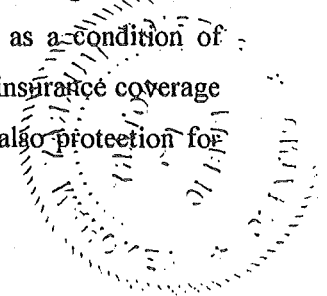
**THEREDPIN, INC. AND THEREDPIN.COM REALTY INC.**

**Respondent**

**AFFIDAVIT OF WILLIAM RYAN DURRELL**

I, William Ryan Durrell, of the City of Whitby, in the Regional Municipality of Durham, in the Province of Ontario, make oath and say as follows:

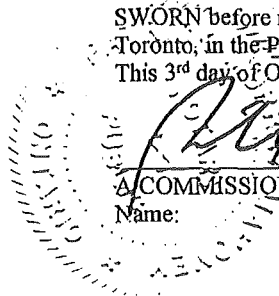
1. I am the Principal Broker of 3303128 Canada Inc. trading as Alternative Risk Services ("Alternative Risk") and as such have knowledge of the matters hereinafter deposed to.
2. Alternative Risk is the managing general agent for certain Lloyd's Underwriters which provides insurance coverages to the registrants of the Real Estate Council of Ontario ("RECO") through RECO. All real estate agents and brokers registered with RECO are obliged to participate in RECO's insurance program as a condition of registration. This insurance program has several facets including insurance coverage for claims for errors and omissions, commission protection and also protection for consumers for deposits paid to real estate brokers.



3. Alternative Risk and its predecessor have been involved in the RECO insurance program since its inception in the year 2000.
4. As indicated, one of the coverages provided by the program is commission protection insurance.
5. It is indicated in paragraph 13 of the Supplementary Report To The Second Report to the Court submitted by MNP Ltd., in its capacity as court-Appointed Receiver of Theredpin, Inc. and Theredpin.com Realty Inc., ("the Report") the insurer encourages the use of commission trust accounts. This is accurate, however, the insurer does not do so because it makes claims management more efficient as stated in that Report. That statement in the Report is not accurate.
6. I have attached excerpts from the Commission Protection Policy for the year 2017. The policy defines both commission trust and commission trust account. These are attached and marked as Exhibit "A" to this my Affidavit. I understand that these definitions conform with the fashion in which the real estate brokerage industry in Ontario views commission trust and commission trust accounts and utilizes those concepts.
7. The use of commission trust accounts and commission trust is encouraged by the insurer for the purposes of risk management. That is, it allows the agents to assert trust claims against other funds outside of the policy which is a substantial factor given that there both claim limits and aggregate limits within the policy.
8. Further, it allows the insurer to assert subrogated claims against trust funds thereby limiting potential losses both to the agents and the insurer.

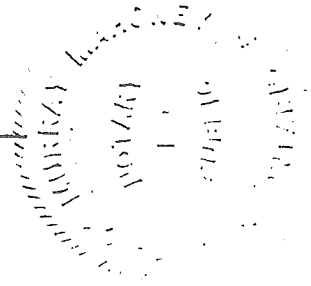
SWORN before me at the City of )  
Toronto, in the Province of Ontario, )  
This 3<sup>rd</sup> day of October, 2018. )  
\_\_\_\_\_)  
A COMMISSIONER, ETC.  
Name: \_\_\_\_\_)

  
\_\_\_\_\_  
WILLIAM RYAN DURRELL



*This is Exhibit "A" referred to in the  
Affidavit of William Ryan Durrell  
sworn before me, this 3rd day of October, 2018*

  
\_\_\_\_\_  
A COMMISSIONER, ETC.





**COVERAGE B**

**COMMISSION PROTECTION INSURANCE EXTENSION**

**Section I — Insuring Agreements**

In consideration of the payment of the premium, and subject to the **Limits of Liability** and the terms and conditions contained herein, the **Insurer** hereby agrees:

**1. Loss of Commission**

To pay on behalf of the **Insured** the amount of any **Claim** for **Loss** sustained by a **Claimant** in a trade in the Province of Ontario in real estate arising out of an **Occurrence** discovered during the **Policy Period**. Payment of any **Claim** shall only apply for the benefit of a **Claimant**.

**2. Defence and Payments of Costs**

In respect of the insurance coverage under this **POLICY**, the **Insurer** will:

- (a) defend any action against the **Named Insured** or an **Administrative Employee** relating to any **Claim** that relates directly or indirectly to **Loss**;
- (b) subject to the **COVERAGE LIMITS** set out below, pay all **Defence Costs**, it being understood that the payment of **Defence Costs** will not erode the **Limits of Liability** provided by this **POLICY**.

**3. Coverage Limits**

- (a) **The Limit of Liability** — each **Claim** stated in the **DECLARATIONS** shall be the maximum liability of the **Insurer** for **Loss** in any **Claim**.
- (b) **The Limit of Liability** — Aggregate each **Occurrence** stated in the **DECLARATIONS** shall be the maximum liability of the **Insurer** for any **Occurrence**. If the total amount of all **Claims** in relation to any **Occurrence** exceeds the aggregate **Limit of Liability**, then **Claims** will be settled on a pro-rata basis in the same proportion that the aggregate **Limit of Liability** bears to the total amount of all **Claims**.
- (c) If payment is made for a **Claim** under this **POLICY**, the **Claimant** (never the **Named Insured**) shall pay the **Deductible** stated in Item 5.B of the **DECLARATIONS**. The **Deductible** shall apply to each **Claim** for **Loss** but shall not apply to **Defence Costs**.

**Section II — Definitions**

The definitions under Coverage A apply to Coverage B except for the following:

**"Administrative Employee"** means a present or former employee, director, officer, manager, volunteer or committee member of the **Named Insured** acting within the scope of his or her duties in that capacity.

**"Claim"** under Coverages B and C means a demand for money.

**"Claimant"** means a **Brokerage**, **Broker** or **Salesperson** or their estates who has sustained a **Loss**, but shall not include any third party who may assert a **Claim** under a contract of assignment or factoring, provided such **Brokerage**, **Broker** or **Salesperson** was not the subject of, or responsible for, the **Occurrence**.

**"Commission"** is the remuneration owing to, to be paid to, or earned by, a **Registrant(s)** for a trade in the Province of Ontario in real estate within twenty-four (24) months prior to the date of first notification of the **Occurrence** to the **Insurer**.

**"Commission Trust"** means a constituted trust where all deposits and other monies received by or due to a **Brokerage** directed to satisfy **Commission** payable or damages or other compensation in lieu of **Commission**, plus applicable taxes, on any trade in real estate are received and held by the **Brokerage** in trust. Where the deposit is received by a listing **Brokerage**, the beneficiaries of the **Commission Trust** shall be the cooperating **Brokerage** and any

listing Salesperson or listing Broker to the extent of any agreed Commission amount, and the listing Brokerage as to the balance after payment of such agreed Commission. Where the funds are received and held by the cooperating Brokerage, the beneficiaries of the Commission Trust shall be the cooperating Salesperson or cooperating Broker to the extent of any agreed Commission amount and the cooperating Brokerage as to the balance after payment of such agreed Commission.

In the event that the cooperating Brokerage receives the deposit, the beneficiaries to the Commission Trust shall be the listing Brokerage and any cooperating Salesperson or cooperating Broker to the extent of any agreed Commission amount and the cooperating Brokerage as to the balance after payment of such agreed Commission. Where the funds are received and held by the listing Brokerage, the beneficiaries of the Commission Trust shall be the listing Salesperson or listing Broker to the extent of any agreed Commission amount, and the listing Brokerage as to the balance after payment of such agreed Commission.

"Commission Trust Account" means a trust account maintained at a Canadian chartered bank or a trust company and designated as a "Commission Trust Account". The Commission Trust Account shall be used only for the receipt and disbursement of Commission Trust funds, and kept separate and apart from the statutory trust account that a Brokerage is required to maintain for customer and/or client funds.

"Deductible" is that indicated in the DECLARATIONS, Item 5, Coverage B.

"Insured" under Coverages B and C means:

- (a) the Named Insured;
- (b) an Administrative Employee; or
- (c) a Registrant.

"Limits of Liability" is that indicated in the DECLARATIONS, Item 4, Coverage B.

"Loss" means loss of Commission which has been or, in the normal course in a trade in real estate, including the sale of a business by share transfer, but does not include any trade or trading which is regulated by the Securities Act, R.S.O. 1990, Chapter S.5, would have been or ought to have been entrusted to or received by one Registrant in its/his/her Professional Capacity but is owed to another Registrant in its/his/her Professional Capacity.

"Occurrence" means

- (a) insolvency of a Registrant; or
- (b) all acts of theft, fraud, misappropriation or wrongful conversion combined, committed directly or indirectly by a Registrant or present or former employee, director, officer or manager of a Registrant of moneys or other property entrusted to, or received by, the Registrant in the Registrant's Professional Capacity; or
- (c) Social Engineering Fraud.

Regardless the number of such incidents of insolvency or the number of such acts of theft, fraud, misappropriation or wrongful conversion, they will be grouped as an amount to only one Occurrence, regardless of the number of Claimants who suffer a Loss.

"Professional Capacity" means the capacity as a Salesperson, Broker or Brokerage.

"Social Engineering Fraud" means a misrepresentation of fact or an intentional, malicious, willful or fraudulent act undertaken by a third party that misleads a Claimant and directly results in a Loss.

### Section III — Exclusions

This POLICY does not apply to any Claim:

1. on account of acts by any Registrant while acting as executor, administrator, trustee, guardian, conservator or in any fiduciary capacity other than as a Brokerage, Salesperson or Broker for a person other than itself/himself/herself;
2. on account of any Occurrence arising out of or attributable to any fact, circumstance or situation which has been the subject of any notice given under any policy of which this POLICY is a direct or indirect renewal or replacement.

### Section IV — Conditions

#### 1. Severability of Interest

It is a condition precedent of this POLICY that the Occurrence which is alleged to give rise to a Claim is related to a Registrant while it, he or she was registered under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended to trade in real estate in the Province of Ontario. No Insured shall be entitled to the benefit of this POLICY unless this condition is fulfilled except that coverage will apply to any Insured who inadvertently or unknowingly employs or becomes associated with a Salesperson, Broker or Brokerage who is not registered under the Real Estate and Business Brokers Act, 2002 or successor legislation as from time to time amended to trade in real estate in the Province of Ontario and against whom a Claim is made and such Insured is alleged or found to be vicariously liable. Notwithstanding the foregoing, it is agreed by the Insurer that an Insured shall be entitled to the benefit of this POLICY with respect to a Claim which arises out of an Occurrence during a period when the registration of the Registrant with the Named Insured has lapsed or been suspended due to administrative error on the part of the Named Insured.

#### 2. Notice and Cooperation

The Insured will give notice, by submitting a detailed Notice of Claim in the prescribed form, of a Claim or an Occurrence that could result in a Claim to the Insurer as soon as practicable. For the purposes of this Section, the Insurer will also accept as notice of claim under this POLICY a Notice of Occurrence with sufficient particulars from an Insured where such Occurrence later gives rise to a Claim from a Claimant.

All Claims arising out of an Occurrence must be reported to the Insurer within twenty-four (24) months of the date of first notification of the Occurrence to the Insurer.

The Insured making the Claim and/or the Claimant shall cooperate with the Insurer and, upon the Insurer's request, assist in making settlements and in the conduct of suits or proceedings. The Insured and/or the Claimant shall attend hearings, mediations, arbitrations, trials and examinations and shall assist in securing and giving evidence and obtaining the attendance of witnesses.

Upon the Insurer's request, the Insured and/or the Claimant shall produce for the Insurer's examination all pertinent records in his/her/their possession, care or control at such reasonable times and places as the Insurer shall designate, and shall cooperate with the Insurer in all matters with respect thereto. Notwithstanding the foregoing, the obligation of the Named Insured to produce records to the Insurer is subject to the Named Insured's duties and responsibilities under legislation related to real estate or the Named Insured in the Province of Ontario, including the Real Estate and Business Brokers Act, 2002 and the regulations thereunder as from time to time amended, and every statute and regulation that may be substituted therefor or any successor legislation and/or the Administrative Agreement between the Named Insured and the Province of Ontario and/or the by-laws of the Named Insured and/or any applicable privacy laws.

The Insurer will have a maximum period of one (1) year from the receipt of Notice of Claim in which the Insurer must complete, finalize and close its investigation and present its findings on any potential Claim to the Insured and/or the Claimant. This period is granted regardless of cancellation, termination or expiration of this POLICY.

**3. Claims Summary Reports**

The Insurer will remit claims summary reports to the **Named Insured** when necessary or upon request.

**4. Proof of Loss**

A detailed and signed Notice of Claim shall constitute proof of Loss for each Claim submitted to the Insurer by an Insured and/or the Claimant making the Claim. Upon completing its investigation and being satisfied that coverage exists, subject to the terms and conditions of this POLICY, the Insurer shall settle each Claim within a reasonable period of time not to exceed ninety (90) days.

**5. Other Insurance, Trust and Other Accounts**

If there is available to the Insured or Claimant other insurance, indemnity, trust or other accounts, the Insurer shall be liable hereunder only for the part of any payment which is in excess of the amount actually recovered by the Insured or Claimant from such other insurance, indemnity, trust or other accounts.

**6. Subrogation and Recovery**

In the event of any payment under this POLICY, the Insurer shall be further subrogated to all rights of recovery of the Insured against any person and the Insured and/or the Named Insured shall execute and deliver instruments and papers and render assistance to the Insurer to secure such rights subject to the Insured's and/or Named Insured's duties and responsibilities under legislation related to real estate or the Named Insured in the Province of Ontario, including the Real Estate and Business Brokers Act, 2002 and the regulations thereunder as from time to time amended, and every statute and regulation that may be substituted therefor or any successor legislation and/or the Administrative Agreement between the Named Insured and the Province of Ontario and/or the by-laws of the Named Insured and/or any applicable privacy laws.

Any recoveries effected by the Insurer shall be applied net of the expense of such recovery, firstly to the Insurer as reimbursement of amounts paid in settlement of any Claim, and secondly to the Insured in satisfaction of any retention within the Deductible.

The Insurer expressly waives all rights of subrogation or recovery against any Registrant of a corporation or partnership who is neither an author, accomplice nor acting in collusion with the dishonest Registrant in respect of any Occurrence resulting in any Claim paid under this POLICY.

**7. Cancellation**

This POLICY may be cancelled:

- (a) by mutual consent of the **Named Insured** and the Insurer;
- (b) by the Insurer for non-payment of premium. Such cancellation may be effected by written notice by registered mail stating when, not less than fifteen (15) days thereafter, the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice and this POLICY shall terminate at the date and hour specified in such notice;
- (c) by the **Named Insured** if a change in legislation, a change in the regulations or a change in the by-laws of the **Named Insured** precludes the necessity of this insurance. Such cancellation may be effected by written notice to the Insurer stating when thereafter the cancellation shall be effective.

**8. Notice of Renewal Terms and Notice of Non-Renewal**

The Insurer, no less than one hundred and sixty-five (165) days prior to the Anniversary, shall offer irrevocable rates, terms and conditions to renew this POLICY for twelve (12) months. The **Named Insured** may accept said offer forty-five (45) days prior to the subsequent Anniversary.

**9. Assignment**

No coverage shall apply in respect of any Claim where an Insured has assigned or transferred rights to making a Claim under this Coverage B without the express written consent of the Insurer.

**10. Action Against the Insurer**

No suit, action or proceeding of any kind to recover under this POLICY shall be brought after the expiration of five (5) years from the termination or cancellation of this POLICY in its entirety, provided, however, that if such limitation for bringing suit, action or proceeding is prohibited or made void by any law controlling the construction of this POLICY, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

**11. Arbitration Clause**

In the event of a dispute between the Insured and/or the Named Insured and/or the Insurer as to the interpretation of this POLICY, or the settlement of Claims, or the apportionment of liability, or amount of the Deductible, a single arbitrator appointed pursuant to the provisions of The Arbitration Act, 1991 shall decide such dispute.

**12. Canadian Currency Clause**

All Limits of Liability, premiums and other amounts as expressed in this POLICY are in Canadian currency.

**13. Economic or Financial Sanctions**

The Insurer shall not knowingly provide cover or be liable to pay any Claim or provide benefit hereunder to the extent that the provision of such cover, payment of such Claim or provision of such benefit would expose the Insurer to any sanction, prohibition or restriction under any applicable international economic or financial sanctions legislation.

**FIREPOWER DEBT GP INC., AS AGENT vs. THEREDPIN,  
INC. AND THEREDPIN.COM REALTY INC.**

**Court File No.: CV-18-599644-00CL**

*ONTARIO  
SUPERIOR COURT OF JUSTICE*

IN THE MATTER OF SECTION 243(1) OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, R.S.C. 1985, C.B-3, AS AMENDED, AND SECTION 101  
OF THE *COURTS OF JUSTICE ACT*, R.S.O. 1990, C.C.43, AS AMENDED

**PROCEEDING COMMENCED AT TORONTO**

**AFFIDAVIT OF WILLIAM RYAN DURRELL**

**KLEIN & SCHONBLUM ASSOCIATES**

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[jklein@ksalaw.com](mailto:jklein@ksalaw.com) Email

Lawyers for Certain Underwriters of Lloyds

**TAB 2**

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ONTARIO

SUPERIOR COURT OF JUSTICE

Dh/dh

B E T W E E N:

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APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND  
INSOLVENCY ACT, R.S.C. 1985, c.B-3, AS AMENDED, AND SECTION 101  
OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c.C.43, AS AMENDED

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This is the Cross-Examination of DENNISE PACCIONE, on her  
affidavit sworn September 19, 2018, taken at the offices of VICTORY  
VERBATIM REPORTING SERVICES INC., Suite 900, Ernst & Young Tower,  
222 Bay Street, Toronto, Ontario, on the 4th day of October, 2018.

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APPEARANCES:

HARVEY CHAITON -- for the Applicant

JORDAN B. GOLDBLATT -- for the TRP Agents  
IRIS GRAHAM

AUBREY E. KAUFFMAN -- for Trilogy Growth Fund LP  
JEFFREY S. KLEIN -- for Certain Underwriters at Lloyds



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1 Upon commencing at 11:07 a.m.

2 DENNISE PACCIONE, sworn

3 CROSS-EXAMINATION BY MR. CHAITON:

4 1 Q. Ms. Paccione, you have sworn an affidavit

5 in this proceeding?

6 A. I have.

7 2 Q. Do you have a copy of that in front of you?

8 Look at tab 2 of the responding motion record.

9 A. Yes.

10 3 Q. Do you mind if I call you "Dennise"

11 throughout the examination?

12 A. That's fine.

13 4 Q. Okay. Before I ask you questions on the

14 affidavit, are there any changes you would want to make to

15 this affidavit?

16 A. No.

17 5 Q. Have you read the receiver's reports prior

18 to today?

19 A. The reports from...

20 6 Q. MNP.

21 A. I have, the reports that came in I guess

22 Friday night, and thereafter. I don't think I have had a

23 chance to really go through those in extreme detail.

24 7 Q. I believe your counsel has brought...there

25 is an original report.

1 MR. GOLDBLATT: Yes, so what we have today, I  
2 have got the initial report as part of the motion  
3 record of the receiver, September 10, 2018, and I  
4 have the supplementary report to the second  
5 report, which is September 28th. We have both of  
6 them.

7 BY MR. CHAITON:

8 8 Q. And have you read both of them?

9 A. Yes, I have looked at both of them.

10 9 Q. Are there any material facts set out in the  
11 those reports that you disagree with?

12 A. Can I see the reports, please?

13 MR. GOLDBLATT: Sure. Let's go off the record.

14 --- DISCUSSION OFF THE RECORD

15 U/T MR. GOLDBLATT: We will undertake to advise  
16 you whether there is any parts of the two reports  
17 that Ms. Paccione disagrees with.

18 BY MR. CHAITON:

19 10 Q. Okay. Thank you. Dennise, can you  
20 describe your educational background for me?

21 A. Sure. I went to Oakville Trafalgar High  
22 School in Oakville, and then I went to the University of  
23 Toronto and studied criminology and sociology.

24 11 Q. And so you became a real estate agent?

25 A. I did.

1 12 Q. Did you obtain a Bachelor of Arts degree or  
2 Science?

3 A. An Honours Bachelor of Arts.

4 13 Q. Okay. And beyond that did you have any  
5 further post-secondary education?

6 A. Just like essentially my real estate license.

7 14 Q. Okay. And when did you obtain that?

8 A. I believe 12 years ago...11 or 12 years ago.

9 15 Q. Okay. And you had to take courses in order  
10 to obtain your license?

11 A. Correct.

12 16 Q. Can you describe generally the kinds of  
13 courses and how long that programme was?

14 A. It was a long time ago, however it was three  
15 courses prior to being licensed, and I think those were  
16 general. There was a residential, commercial and I think a  
17 law course, and then after that there is an articling course  
18 that you are required to take within your first two years of  
19 being licensed. After that you are required to take a  
20 certain number of credits I think every two year cycle to  
21 maintain your real estate license from there.

22 17 Q. Okay. And during your programmes, courses  
23 to become a real estate agent, did you learn or become  
24 familiar with the TREB rules and regulations?

25 A. The licensing process is more provincially

1 based than it is based on the Toronto Real Estate Board. So  
2 those courses are not relative to TREB. They are based on  
3 RECO and I guess OREA, which is the Ontario Real Estate  
4 Association.

5 18 Q. Are the RECO rules different from TREB in  
6 so far as they deal with commissions payable to agents?

7 A. To be honest I'm not an expert in that and  
8 I'm not sure. I don't know the answer.

9 19 Q. All right. And when you were talking about  
10 OREA, did also go through and discuss the various OREA  
11 forms?

12 A. To be honest it is 12 years ago now and I  
13 don't remember every single thing that we went through in  
14 those courses. So I don't feel like I can answer that with  
15 100% confidence.

16 20 Q. Okay. So you have become familiar with the  
17 TREB rules and the OREA forms through your experience as a  
18 real estate agent?

19 A. Correct.

20 21 Q. All right. If you could turn up paragraph  
21 6 of your affidavit, you say in the first sentence that  
22 "At issue on the motion is how certain commissions owed to  
23 me will be treated". So by that do you mean whether or  
24 not the commissions owed are a debt due to you by TRP  
25 Realty, or held in trust by TRP Realty for you?

1                   A.    We would be referring to the commissions  
2                   being held in trust for us.

3    22               Q.    By TRP Realty?

4                   A.    Correct.

5    23               Q.    All right.  And is it your understanding  
6                   that when a transaction is closed and TRP is the  
7                   cooperating broker that the gross amount of commissions  
8                   are paid to TRP Realty?

9                   A.    So when you are the cooperating broker...  
10                  sorry, repeat the question just so I am...

11   24               Q.    So where TRP is the cooperating broker...

12                  A.    Yes.

13   25               Q.    ...the gross amount of commissions payable  
14                  to the cooperating broker are paid in full to TRP Realty.

15                  A.    Yes.

16   26               Q.    There is nothing paid by the selling broker  
17                  to you directly if you were involved in the transaction?

18                  A.    That's correct.

19   27               Q.    And you talk about at the end the gross  
20                  commission and you say, "I acknowledge there may be  
21                  certain other payments to be made".  So those payments  
22                  would include payments to the brokerage?

23                  A.    So, Section 6 doesn't explicitly refer to  
24                  cooperating brokerage.  It could be when...the listing  
25                  brokerage as well.  So we could be paying the cooperating

1           brokerage, or there could be referral arrangements. That's  
2           what we were indicating there.

3       28           Q.   And what other payments might be made out  
4           of the commission?

5           A.   They would just be commission payments, so to  
6           a cooperating brokerage, or to another brokerage in terms of  
7           a referral payment.

8       29           Q.   What about cash back payments?

9           A.   I was not in charge of the commission account  
10          so I'm not 100% sure if cash back came directly from the  
11          commission trust, or if it came from another account.

12      30           Q.   Okay. So what I was getting at is there is  
13          an amount of money...there is commissions paid to TRP.

14          A.   Yes.

15      31           Q.   And then it is that gross amount of  
16          commission that the brokerage is entitled to, and you say  
17          you are entitled to part of that as an agent...

18          A.   Yes.

19      32           Q.   ...involved in the transaction?

20          A.   Yes.

21      33           Q.   I'm just trying to establish what other  
22          deductions are made from that amount.

23          A.   So other agents...

24      34           Q.   Right.

25          A.   Possibly cash back and I guess a portion of

1 it would be retained by TRP by way of the commission split.

2 35 Q. Okay. Is there anything else to your  
3 knowledge?

4 A. Not to my knowledge, no.

5 36 Q. Okay. And do you understand what cash back  
6 payments are?

7 A. Yes.

8 37 Q. Can you describe that?

9 A. So a cash back payment would be an  
10 arrangement made usually between the agent and the client  
11 that they would give a portion of the commission as cash to  
12 the client.

13 38 Q. Is that coming out of the agent's share?

14 A. To be honest in...on my deals it would be  
15 coming out of the gross.

16 39 Q. All right.

17 A. But I'm not sure if all agents would have  
18 made these same arrangements with their clients.

19 40 Q. So it would come out before any sharing of  
20 the commission between the brokerage and the agent?

21 A. I believe so, yes. Yes.

22 41 Q. Paragraph 9 you referred to fact that you  
23 began working with TRP Realty on July 22, 2013 as an  
24 employee. Were you employed as a real estate agent before  
25 that?



1 A. I was, yes.

2 42 Q. What brokerages?

3 A. So prior to working at TRP Realty I worked  
4 with Milborne Real Estate for seven years.

5 43 Q. And were you a salaried employee there or a  
6 commissioned agent?

7 A. I was a contractor there.

8 44 Q. An independent contractor?

9 A. Correct.

10 45 Q. And prior to Milborne were you employed at  
11 any other brokerage?

12 A. I was but for a very, very short period of  
13 time. When I first got my license in Oakville I worked at a  
14 Royal LePage for maybe two months max before I moved to  
15 Toronto and transferred my license accordingly to Milborne.

16 46 Q. So throughout the period at Milborne you  
17 were an independent contractor?

18 A. Correct.

19 47 Q. And do you have a copy of your independent  
20 contractor agreement with Milborne?

21 MR. GOLDBLATT: I don't see how that is relevant.

22 MR. CHAITON: We are dealing with a question of  
23 how commissions are being treated. I appreciate

24 it is with TRP Realty, but there is a clear

25 impression from the affidavit material that

1                   somehow this is standard in the industry. So I  
2                   would like to know what the arrangements were  
3                   with her prior agency she worked with.

4           U/A       MR. GOLDBLATT: I will take under advisement to  
5                   produce any prior independent contractor  
6                   agreement with Milborne, to the extent that she  
7                   has it, of course.

8                   MR. CHAITON: I'm sorry?

9                   MR. GOLDBLATT: To the extent she still has the  
10                  contract.

11       BY MR. CHAITON:

12       48           Q.    Right. Okay. Then going back to paragraph  
13                   9, so when you started as an employee you were paid a  
14                   salary?

15                   A.    I was.

16       49           Q.    Was there any sales commission that you  
17                   were also receiving on sales that you were involved with  
18                   while you were an employee?

19                   A.    There was a bonused amount.

20       50           Q.    And it was described as a bonus or as...

21                   A.    Correct.

22       51           Q.    And what was the amount of that bonus? How  
23                   was it calculated?

24                   A.    I would have to go back to that contract to  
25                   give you a clear answer on that. It was a percentage but I

1 don't remember the percentage.

2 52 Q. Percentage of the gross sale price...

3 A. Yes.

4 53 Q. ...of the property?

5 A. Yes.

6 54 Q. And when was it payable?

7 A. Again I would want to double check with the  
8 contract, but it was paid upon firm up of the sale.

9 55 Q. Okay. So...

10 A. So prior to closing.

11 56 Q. I see. And what happens if it didn't

12 close? Did you get to keep the money or did you have to  
13 return it?

14 A. That issue never came up. My understanding  
15 is that the money was mine.

16 57 Q. Okay. Do you have a copy of your  
17 employment agreement with TRP Realty?

18 A. Not on me, no.

19 58 Q. Could you provide that to me, please?

20 U/A MR. GOLDBLATT: I'm going to take it under  
21 advisement.

22 BY MR. CHAITON:

23 59 Q. Okay. And do you know if there were any  
24 amendments to that employment agreement while you were in  
25 the capacity as an employee?

1                   A.    Not to the best of my memory, but again you  
2                   would have to...

3    60               Q.    So if there were any amendments to the  
4                   employment agreement I would like those as well.

5                   U/A       MR. GOLDBLATT:  Same position.

6                   BY MR. CHAITON:

7    61               Q.    In paragraph 10 you refer to the  
8                   independent contractor agreement that you have with TRP  
9                   Realty.  Was that a negotiated agreement?  And what I mean  
10                  by that is did you negotiate the terms with anyone at TRP?

11                  A.    To the best of my knowledge the contracts are  
12                  standard...the terms within there.  The only component that  
13                  would have been negotiated would be the commission.

14   62               Q.    So there are different rates for different  
15                  agents?

16                  A.    Yes.  Yes.

17   63               Q.    Do you recall whether you obtained  
18                  independent legal advice or other professional advice  
19                  before you signed the agreement?

20                  A.    I didn't.  I didn't think it was necessary.

21   64               Q.    I assume you understood the agreement at  
22                  the time you signed it?

23                  A.    To the best of my nonlegal background, yes.

24   65               Q.    Sorry, so you didn't think it was necessary  
25                  to get any professional advice before you signed it?

1 A. Not at the time, no.

2 66 Q. I assume that if you wanted to you had the  
3 opportunity to do so?

4 A. Yes.

5 67 Q. So you attached as Exhibit B a copy of the  
6 independent contractor agreement.

7 A. Okay.

8 68 Q. Can you tell me where in this more than 10  
9 page agreement it says that commissions that you earned  
10 are held in trust by TRP for you?

11 /R MR. GOLDBLATT: I'm going to refuse that  
12 question. I don't think it is a fair question.  
13 You can read the contract as well as Ms. Paccione  
14 can.

15 MR. CHAITON: I want to know is there any  
16 provision, any term of this agreement, that you  
17 rely on that establish your entitlement to the  
18 commission on the basis of the alleged trust.

19 MR. GOLDBLATT: The question of the question of  
20 the existence of the trust is a legal question to  
21 be determined on the basis of a number of  
22 factors. The contract says what it says.

23 MR. CHAITON: Are you relying on any written  
24 agreement to establish that the commissions that  
25 were received by TRP on transactions you were

1 involved in are held in trust for you?

2 MR. GOLDBLATT: We take the position that the  
3 contract provides for the payment of monies which  
4 are going to be paid to the agent and that is one  
5 of the indicia in respect of the existence of a  
6 trust.

7 MR. CHAITON: Okay. And to the extent it is one  
8 of the indicia, which language are you relying  
9 on?

10 U/T MR. GOLDBLATT: We are relying on Section 5. I  
11 will let you know if there is any other section.

12 MR. CHAITON: Okay, and are there any particular  
13 words in Section 5 you are relying on?

14 MR. GOLDBLATT: The entirety of section 5. One  
15 second...

16 BY MR. CHAITON:

17 69 Q. When your arrangement was changed from  
18 employee to independent contractor, did the services that  
19 you provided change in order to earn the income that you  
20 were entitled to?

21 A. Not materially.

22 70 Q. So you were doing more or less the same  
23 thing. It is just how you got paid changed.

24 A. Yes.

25 71 Q. Paragraph 13...

1 MR. GOLDBLATT: One second. Yes.

2 BY MR. CHAITON:

3 72 Q. I'm paraphrasing, but I take it there you  
4 are saying your understanding was that you earned and  
5 would be paid commissions on closed sales transactions.

6 A. Correct.

7 73 Q. Okay. And is it fair to say that that  
8 differed from when you were an employee of TRP Realty in  
9 that you were paid as an employee on a weekly or other  
10 regular basis whether or not you effected any sale?

11 A. Yes.

12 74 Q. And in both cases what you earned, whether  
13 it was salary or the commission, was owing to you by the  
14 brokerage. I mean, when you got a salary the salary was  
15 owed to you for doing the work that you were asked to do,  
16 right?

17 A. Yes.

18 75 Q. And when you were an independent contractor  
19 and you were earning commissions, it was because you had  
20 effected a sale and you were entitled to the commissions  
21 at that time?

22 A. Correct.

23 76 Q. But in the both cases it was you had  
24 provided the services that you were required to do to  
25 entitle you to receive the payment?

1 A. Yes.

2 77 Q. Okay. And you expected to be paid what you  
3 earned whenever it was due?

4 A. Yes.

5 78 Q. And in fact that happened until the  
6 receivership of TRP Realty.

7 A. That's correct.

8 79 Q. In paragraph 14 where you refer in the  
9 second line to "my money", I take it that is really no  
10 different than the salary that you were owed as an  
11 employee. That was your money too.

12 A. Both were my money, but there are differences  
13 to me.

14 80 Q. Well, in both cases you earned it and it  
15 was owing to you, right?

16 A. Yes.

17 81 Q. Okay. In paragraph 15 you talk about the  
18 fact that your contract was renegotiated. I take it that  
19 is the independent contractor agreement?

20 A. Yes.

21 82 Q. Okay. And do you have copies of the June  
22 1, 2016 and February 1, 2017 agreements?

23 A. I don't think we brought all the different  
24 copies of the...from my understanding the only aspect of  
25 those contracts that would be different is the commission



1 amounts.

2 83 Q. Sorry, you say in paragraph 15 that in the  
3 both of those contracts the commission entitlement was  
4 unchanged.

5 A. The commission entitlement is unchanged. In  
6 February 1st, 2017 the percentage of commission owed to me  
7 is increased.

8 84 Q. All right. Okay. Well. If you could  
9 provide me with copies of those agreements, please?

10 U/T MR. GOLDBLATT: Yes.

11 BY MR. CHAITON:

12 85 Q. Sorry, just a follow up question before I  
13 get to the next one, so the amended agreements, the June  
14 1, 2016 and February 1, 2017, I take it also don't have  
15 express trust language in them.

16 /R MR. GOLDBLATT: Without having the contracts in  
17 front of Ms. Paccione, I'm not sure that that is  
18 a fair question for her to do it by way of  
19 memory. You will get the contracts and to the  
20 extent you have follow up questions we can answer  
21 them.

22 BY MR. CHAITON:

23 86 Q. Fine. At paragraph 16 you refer to a text  
24 message from Kyle which you set out at tab C. Is this the  
25 full response to whatever text you sent him, or has there

1           been anything redacted from it?

2                   A.    There has been nothing redacted from that.

3    87            Q.    Okay.  And do you have the text of your  
4           ...whatever you sent him that this is in response to?

5                   A.    There ws no question prior to this.  The text  
6           message prior to this is an unrelated conversation.

7    88            Q.    All right.  So when did that conversation  
8           arise that led to this text?

9                   A.    The conversation that led to this text is a  
10          result of like the contract renegotiation that is noted in  
11          paragraph 15, so the February 1st 2017 contract change.

12   89            Q.    I see.  So that precedes that agreement?

13                   A.    Yes.

14   90            Q.    Were there any other texts, e-mails or  
15          other written communication with Kyle or anyone else at  
16          the brokerage concerning the terms of your, I guess, new  
17          contract or renewed contract?

18                   A.    Sorry, repeat the question again.

19   91            Q.    Was there any other text, e-mail message or  
20          other written communication with Kyle or anyone else at  
21          the brokerage concerning the renewed contract on February  
22          1, 2017?

23                   A.    Not that I have in my possession or that I'm  
24          aware of right now.

25   92            Q.    Now you said...this seems to indicate that

1           you had some concerns about financing that was in place  
2           with the brokerage and how that might impact your  
3           commission entitlement, right? Perhaps you can explain  
4           what it is you were talking about.

5                     A. Repeat the question for me one more time?

6    93           Q. You have given us a text from Kyle to  
7           yourself so there was some discussion that preceded this.

8                     A. M'hmm.

9    94           Q. What is that you were talking to him about?

10                    A. That they were obtaining funding and I wanted  
11           to ensure during the renegotiation that nothing would change  
12           in terms of our commissions in trust.

13    95           Q. Do you have anything in writing to him that  
14           would say that you were concerned about any change to  
15           commissions being held in trust?

16                    A. I don't have anything in writing, no.

17    96           Q. So you are paraphrasing that conversation?

18                    A. Define "paraphrasing".

19    97           Q. You are not giving back the exact words  
20           that you spoke with him about?

21                    A. If they are not in writing, like I'm going by  
22           my memory.

23    98           Q. Okay. And who told you about the  
24           refinancing?

25                    A. Again, going by memory Kyle and Tarik.

1 99 Q. Kyle and Tarik or...

2 A. I don't remember exactly at the time.

3 100 Q. Why would they have spoken with you about  
4 the refinancing?

5 A. I'm not sure.

6 101 Q. And did you express the same kind of  
7 concerns to them any time earlier when other lenders  
8 became involved providing financing to the brokerage?

9 A. No.

10 MR. GOLDBLATT: Just for the record, "Tarik" is  
11 T-A-R-I-K.

12 BY MR. CHAITON:

13 102 Q. Do you know whether Kyle or Tarik are  
14 lawyers?

15 A. Not to my knowledge.

16 103 Q. Okay. Do you know what qualifications they  
17 have to express any opinions on legal priorities among  
18 parties who have an entitlement to the commissions?

19 A. So Tarik is the broker of record.

20 104 Q. Right.

21 A. So I would expect that he would have an  
22 understanding of real estate accounts and real estate trust  
23 accounts. That would, from my understanding, be the  
24 responsibility on the broker of record. Kyle was the VP of  
25 sales at the brokerage and in terms of his expertise I'm not

1           sure. I do think that he had a good understanding of what  
2           was happening in terms of the financing, at least to the  
3           best of my knowledge.

4   105           Q.    So, the information goes well beyond just  
5           the question of whether or not the agents' commission  
6           might be in trust. He actually talks about who is  
7           entitled to the money in a very specific order of  
8           priority.

9           A.    M'hmm.

10           MR. GOLDBLATT: You can't say "M'hmm". The  
11           transcript won't pick it up. The answer was  
12           "Yes".

13           THE DEPONENT: Yes.

14           BY MR. CHAITON:

15   106           Q.    So do you know what qualifications they  
16           have to provide that kind of legal opinion?

17           A.    I personally do not know what...how they...I  
18           don't know.

19   107           Q.    And did you ever find out whether or not  
20           his advice about that order of priority was correct?

21           A.    We believed it was correct from confirmation  
22           here.

23   108           Q.    Confirmation from him you mean?

24           A.    From Tarik, correct.

25   109           Q.    Did you ever independent verify whether

1 what he told you was accurate?

2 A. No.

3 110 Q. Did you ever seek confirmation of the  
4 accuracy of that information from anyone else prior to the  
5 receivership?

6 A. No, we believed our money was in a commission  
7 trust and was protected.

8 111 Q. Okay. What's the basis of that belief?

9 A. It is noted as a commission trust on our  
10 trade records as well as on our pay stubs.

11 112 Q. All right. So you are referring to the  
12 fact that there is a reference to a trust.

13 A. Correct and that's what was communicated to  
14 us from the broker of record that our commissions were in a  
15 trust account which I guess from my nonlegal background I  
16 assumed that there is protection around the funds as a  
17 result of that.

18 113 Q. Okay. In the text at tab C it talks near  
19 the end about a deal closing on Monday and you said "He  
20 can give you your assurances immediately following that"  
21 and then goes on to say, "Got the impression that giving  
22 you solid guarantees will not be an issue". Did you ever  
23 seek or obtain any subsequent guarantees from the  
24 brokerage?

25 A. Not that I can find at this time.

1 114 Q. Okay. Paragraph 18 you refer to your  
2 understanding about the flow of funds. When and how did  
3 you obtain that understanding?

4 A. Well, more understanding has happened as a  
5 result of the receivership, however there were conversations  
6 that I had had with people in accounting that had clarified  
7 that money goes into a designated commission account called  
8 the "commission trust account" which is separate from where  
9 consumers' money is held.

10 115 Q. And when did you make that inquiry and find  
11 it out?

12 A. It would be during my time there. I don't  
13 know if I have an exact date. It would be probably a casual  
14 conversation with people within the office.

15 116 Q. Would that have been more recently or how  
16 long ago? Can you even estimate?

17 A. I don't have a definitive date for you.

18 117 Q. And do I understand you to be saying in  
19 paragraph 18 that it is only the commission you were  
20 entitled to that would be put into that account?

21 A. No. As far as I understand all agent  
22 commission is treated the same in one account.

23 118 Q. But is it only the agent commission that  
24 goes into the account?

25 A. From my understanding it is only commissions

1 in that account, yes.

2 119 Q. All right. And that commission, the agent  
3 commission, is only part of that amount, is that right?

4 A. I'm not sure I understand the question.

5 120 Q. Okay. So we talked about this earlier. So  
6 out of the commissions that are paid there are amounts  
7 that belong to the brokerage?

8 A. My understanding is the gross commission  
9 amount goes into that account. So then I guess it is the  
10 gross commission.

11 121 Q. And what did you mean by a specific bank  
12 account designated by TRP Realty?

13 A. The specific bank account I am referring to  
14 is the one that is noted on the pay stubs there, so RBC  
15 Commission Trust.

16 122 Q. Okay. And you know that it, since early in  
17 2018, it is no longer called a "commission trust".

18 A. It has been brought to my knowledge as a  
19 result of the receivership that that happened. However  
20 nobody was notified of that. It was not communicated nor  
21 did it change. Like, there was no reason for me to feel  
22 like that would have changed the way the funds were being  
23 handled.

24 123 Q. Okay. So the fact that the word  
25 "commission" wasn't there wasn't all that important to



1           you?

2                   A.    I will be honest...

3                   MR. GOLDBLATT:  Sorry, you...

4           BY MR. CHAITON:

5   124            Q.    Sorry, trust...the fact that the word  
6                   "trust" wasn't on the account.

7                   A.    It was five letters and I did notice that it  
8                   had been removed because it was the same prior to that.

9   125            Q.    All right.  So that I'm clear, when you  
10                   talk about a specific bank account designated by TRP, that  
11                   is just a specific bank account into which the gross  
12                   amount of the commission was deposited.

13                   A.    Correct.

14   126            Q.    I just want to ask you something on  
15                   paragraph 17 and perhaps, Counsel, it is for you.  I just  
16                   wan to understand whether the basis for the alleged trust  
17                   claim for all of the TRP agent group is the same.

18                   U/T       MR. GOLDBLATT:  The answer is yes.  If it is not  
19                   we will advise you otherwise.

20           BY MR. CHAITON:

21   127            Q.    Okay.  Thank you.  Dennise, to your  
22                   knowledge is there any requirement under your agreement  
23                   with TRP Realty, so the independent contractor agreement,  
24                   or under the rules of your occupation, so whether it is  
25                   the TREB rules, or any other applicable rules relating to

1           being a real estate agent, that requires the brokerage to  
2           hold the commissions earned by agents in trust for them?

3                   MR. GOLDBLATT: Counsel, I am going to permit Ms.  
4                   Paccione to answer the question knowing that she  
5                   is not an expert here and her knowledge of what  
6                   may or may not be the law is not properly part of  
7                   the cross-examination. So with that caveat I am  
8                   happy to have her answer.

9                   MR. CHAITON: Yes, I wasn't asking for a legal  
10                  opinion, just...

11                  MR. GOLDBLATT: That's fine. Go ahead.

12                  THE DEPONENT: Repeat the question, please.

13           BY MR. CHAITON:

14   128           Q.    Sorry, I just want to know to your  
15           knowledge is there anything under your agreement with TRP  
16           Realty, or is there anything in any of the rules that are  
17           applicable to being a real estate agent, that requires the  
18           brokerage to hold the agent share of commission in trust?

19                   A.    Yes, when you are the listing brokerage you  
20           are holding money in trust for the cooperating brokerage.

21   129           Q.    And that's for the cooperating brokerage,  
22           not for the agent?

23                   A.    My understanding is it is for both parties.  
24           That's how I understood the nature of the trust, like it is  
25           held in a commission trust account and those funds are held

1 in trust.

2 130 Q. So whatever your...

3 A. That was my understanding.

4 131 Q. ...understanding was, right or wrong, we  
5 can agree, though, that what the document says, and we can  
6 get to it, is that it is in trust for the cooperating  
7 brokerage?

8 A. I understood as those are trust funds. As  
9 Jordan mentioned I'm not an expert on this, but my  
10 understanding is that those constitute trust funds and are  
11 also held in trust for the cooperating brokerage.

12 132 Q. Look at paragraph 22 of your affidavit.  
13 You actually set out language that you are relying on in  
14 support of the position that is being taken by you and  
15 your colleagues, and I see that you have emphasized  
16 language in the commission trust agreement.

17 A. M'hmm.

18 133 Q. Do you see that there?

19 A. M'hmm.

20 134 Q. Okay. And if you look at that bolded  
21 language that is underlined you will see it says that "The  
22 listing brokerage hereby declares all monies received in  
23 connection with a trade shall constitute a commission  
24 trust and should be held in trust for the cooperating  
25 brokerage". Do you see that?

1 A. M'hmm.

2 135 Q. Okay. And so do I understand you to say  
3 notwithstanding that language you had a different  
4 understanding?

5 A. No, I agree with the language.

6 136 Q. Paragraph 24 you attach the...you refer to  
7 the MLS rules and regulations. You attach that at tab E.  
8 If you need to go through it carefully you can, but would  
9 you agree with me that the language in this article 13 is  
10 not materially different than what we just read in your  
11 affidavit at paragraph 22, that the amounts received are  
12 held in trust for the cooperating brokerage.

13 A. I mean, it communicates here that the funds  
14 are in a listing brokerage's commission trust account, so  
15 from my understanding all of the funds would be considered  
16 as in trust. They are in trust for the cooperating  
17 brokerage and they are in trust for the listing brokerage.  
18 That is how I understand...

19 137 Q. Let's take a step back, because when you  
20 talk about in trust with the listing brokerage, the  
21 listing brokerage is the one that receives the deposit  
22 monies, right?

23 A. M'hmm. Yes.

24 138 Q. And they are supposed to keep that money in  
25 trust until the transaction closes, correct?

1 A. M'hmm.

2 139 Q. It is only then that the funds get  
3 released. They are to be disbursed and they can be used  
4 to pay the cooperating broker?

5 A. M'hmm.

6 140 Q. And in fact this says that the monies held  
7 by the listing broker are in trust for the cooperating  
8 broker?

9 A. From my understanding in the commission trust  
10 account. So...

11 141 Q. I'm just saying it only says that it is in  
12 trust for the cooperating broker.

13 A. It does say that. However my understanding  
14 is that the funds are the same...treated the same.

15 142 Q. Your understanding doesn't come from the  
16 words used in this agreement. It comes from another  
17 source?

18 MR. GOLDBLATT: Counsel, to be fair 13.02  
19 provides "Listing brokerage and cooperating  
20 brokerage shall include a broker or sales person  
21 representing the listing brokerage or cooperating  
22 brokerage".

23 MR. CHAITON: Where are you looking, Counsel?

24 MR. GOLDBLATT: 13.02. I mean, the words say  
25 what they say.

1 MR. CHAITON: All right. Well, we can debate  
2 what that is saying, but you are relying on that  
3 language?

4 MR. GOLDBLATT: That's right. And I think that's  
5 what we will be arguing in front of the court.  
6 You are entitled to ask Ms. Paccione these  
7 questions, but the language is what it is.

8 BY MR. CHAITON:

9 143 Q. At tab F, the commission trust agreement  
10 that you have which incorporates the rules and regulations  
11 of the MLS, you will agree with me that that language  
12 provides for a commission trust again between the listing  
13 broker and the cooperating broker?

14 A. It applies for both. This is monies received  
15 or received by...

16 144 Q. Sorry? It refers to Section 13.01 of the  
17 MLS rules.

18 A. That's correct.

19 145 Q. Okay. And then if you look at what  
20 follows, is that a trade record?

21 A. It is.

22 146 Q. And you will see around the middle of the  
23 page on the right side above the signature lines it says,  
24 "It is understood between all parties that this agreement  
25 shall constitute a commission trust agreement as set out

1 in the contract".

2 A. Yes.

3 147 Q. What contract is it referring to?

4 A. Our independent sales contract.

5 148 Q. Are you sure it is not the agreement of  
6 purchase and sale?

7 A. It could be the agreement of purchase and  
8 sale as well, yes.

9 149 Q. As well or is that the contract they are  
10 referring to?

11 A. I'm not sure.

12 150 Q. Perhaps you can take it under advisement  
13 and let me know what the contract is that it is referring  
14 to?

15 U/T MR. GOLDBLATT: Sure. Well, we won't take it  
16 under advisement. We will undertake to advise  
17 you.

18 MR. CHAITON: Yes, and we will want the basis  
19 for whatever determination you make.

20 U/T MR. GOLDBLATT: Sure. Just off the record for  
21 one...let's stay on. I am just looking at the  
22 record which is in front of Ms. Paccione. It  
23 looks like there is an error in terms of how this  
24 has been tabbed.

25 MR. CHAITON: Okay.

1 MR. GOLDBLATT: And I just want to be clear that  
2 the document which is page 42 of the record  
3 should be as part of Exhibit B, I believe.

4 MR. CHAITON: B?

5 THE DEPONENT: Yes.

6 MR. GOLDBLATT: It is the back page of the MLS  
7 rules and regulations. It is not part of Exhibit  
8 F.

9 MR. CHAITON: All right.

10 MR. GOLDBLATT: If you go to the next page you  
11 see the exhibit stamp.

12 MR. CHAITON: Yes.

13 MR. GOLDBLATT: I just want to...I apologize for  
14 that.

15 MR. CHAITON: All right.

16 MR. GOLDBLATT: So do you want to go off the  
17 record?

18 MR. CHAITON: Yes, let's go off the record for a  
19 few minutes.

20 MR. GOLDBLATT: Sure.

21 ...Upon recessing at 11:48 a.m.

22 ...Upon resuming at 11:54 a.m.

23 DENNISE PACCIONE, resumes

24 CONTINUED CROSS-EXAMINATION BY MR. CHAITON:

25 151 Q. Thanks Dennise, I just have one further



1 question for you and that is, we have gone through the  
2 documents, various agreements that are part of your  
3 affidavit as well as the rules...the MLS rules. I am  
4 wanting to know whether there is anything else that forms  
5 the basis for your understanding that the commissions  
6 received by TRP Realty were held in trust for agents.

7 A. Nothing at this time.

8 MR. GOLDBLATT: Aubrey, are you asking any...

9 MR. KAUFFMAN: No.

10 MR. GOLDBLATT: Jeff?

11 MR. KLEIN: No.

12 MR. GOLDBLATT: I have one question by way of  
13 re-examination.

14 RE-EXAMINATION BY MR. GOLDBLATT:

15 152 Q. Ms. Paccione, can you go to paragraph 14 of  
16 your affidavit? You will recall Mr. Chaiton was asking  
17 questions about how you were being paid as an employee as  
18 opposed to how you were receiving money as a contractor  
19 and you were asked questions about the phrase "my money"  
20 and you started to say, "They were different to me". When  
21 you said that what did you mean?

22 A. My understanding of the way that the accounts  
23 worked is that employees' salaries and payments would come  
24 out of a general operating account versus a commissions  
25 account, commissions payable only to agents. So the listing

1           brokerage is, cooperating brokerage is and the agents that  
2           are associated by referral with those transactions.

3                     MR. GOLDBLATT: All right.

4                     MR. CHAITON: So subject to any questions arising  
5                     out of the answers to undertakings, we will  
6                     adjourn this examination.

7                     MR. GOLDBLATT: Okay. Off the record. Thank  
8                     you.

9                     THE DEPONENT: Thank you.

10

11           ...Upon adjourning at 11:58 a.m.

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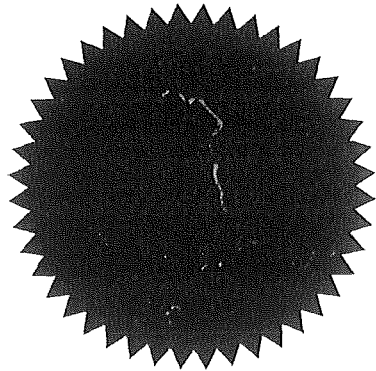


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REPORTER'S NOTE:

Please be advised that any undertakings, objections, under advisements and refusals are provided as a service to all counsel, for their guidance only, and do not purport to be legally binding or necessarily accurate and are not binding upon Victory Verbatim Reporting Services Inc.

I hereby certify the foregoing to be a true and accurate transcription of the above noted proceedings held before me on the 4th day of October, 2018 and taken to the best of my skill, ability and understanding.



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Darlene Harrison, CSR  
Computer-Aided Transcript

**TAB**

**3**

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

KS/ks

B E T W E E N:

FIREPOWER DEBT GP INC., AS AGENT

Applicant

- and -

THEREDPIN, INC. and THEREDPIN.COM REALTY INC.

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND  
INSOLVENCY ACT, R.S.C. 1985, c.B-3, AS AMENDED, AND SECTION  
101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, c.C.43,  
AS AMENDED

- - - - -

This is the Cross-Examination of TARIK GIDAMY, on his  
Affidavit sworn on the 19th day of September, 2018 taken at  
the offices of VICTORY VERBATIM REPORTING SERVICES INC.,  
Suite 900, Ernst & Young Tower, 222 Bay Street, Toronto,  
Ontario, on the 11th day of October, 2018.

- - - - -

APPEARANCES:

HARVEY CHAITON	--	for the Applicant
JORDAN GOLDBLATT	--	for the TRP Agents
AUBREY E. KAUFFMAN	--	for Trilogy Growth Fund LP, by its general partner, Trilogy Growth Inc.



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1 --- Upon convening at 11:00 a.m.

2 --- Upon commencing at 11:00 a.m.

3

4 TARIK GIDAMY, affirmed

5 CROSS-EXAMINATION BY MR. CHAITON:

6 1. Q. Good morning. May I have your full  
7 name for the record, please?

8 A. Tarik Gidamy.

9 2. Q. All right. Do you mind if I call  
10 you Tarik during the examination?

11 A. Sure.

12 3. Q. Okay. You swore an affidavit in  
13 these proceedings?

14 A. Yes.

15 4. Q. All right. Do you have that in  
16 front of you?

17 A. Yes, I do.

18 5. Q. Are there any corrections you want  
19 to make to that affidavit at this time?

20 A. No.

21 6. Q. Have you had a chance to read the  
22 Receiver's Second Report and Supplemental, or the  
23 Supplement to the Second Report prior to today?

24 MR. GOLDBLATT: Counsel, do you mind if  
25 I put them in front of them so he can see

1 it?

2 7. MR. CHAITON: Sure.

3 MR. GOLDBLATT: So, I'm showing Mr.  
4 Gidamy the first Report, it's actually the  
5 Second Report of the Receiver, September  
6 10, 2008. Have you had a chance to see  
7 that document?

8 THE DEPONENT: Not in exact detail, but  
9 I've seen it.

10 MR. GOLDBLATT: And then the Second,  
11 sorry, Supplementary Report to the Second  
12 Report, September 28th, have you seen  
13 this?

14 THE DEPONENT: Also seen it.

15 8. MR. CHAITON: Okay.

16

17 BY MR. CHAITON:

18 9. Q. Are there any material facts you  
19 disagree with in those reports?

20 MR. GOLDBLATT: Counsel, why don't we  
21 do it by way of undertaking rather than  
22 have him go through it line-by-line.

23

24 BY MR. CHAITON:

25 10. Q. Okay. Do you know offhand, having

1 reviewed it?

2 A. Offhand, no.

3 11. MR. CHAITON: All right. So, Counsel,  
4 if there are some materials facts, you'll  
5 let me know?

6 MR. GOLDBLATT: Yes. And I can say  
7 this, as you're aware, in Mr. Gidamy's  
8 affidavit he does make one comment in  
9 respect of the flow of funds, so you do  
10 have that information. U/T

11 12. MR. CHAITON: And which paragraph are  
12 you referring to?

13 MR. GOLDBLATT: Paragraph 23, or sorry,  
14 paragraph 19.

15 13. MR. CHAITON: Okay.

16

17 BY MR. CHAITON:

18 14. Q. How old are you, sir?

19 A. Forty-four.

20 15. Q. And do you have any post secondary  
21 education?

22 A. I almost completed university, but  
23 not formal.

24 16. Q. Sorry. What do you mean by not  
25 formal?

1 A. As in I didn't graduate from  
2 university.

3 17. Q. Okay. And how many years of post  
4 secondary have you done?

5 A. Three.

6 18. Q. In what area?

7 A. A mix of engineering and business.

8 19. Q. And what school?

9 A. McMaster and York.

10 20. Q. Okay. You have your real estate  
11 broker's license?

12 A. Yes.

13 21. Q. And when was that obtained?

14 A. Nineteen ninety-nine.

15 22. Q. All right. When did you become  
16 broker of record for TRP Realty?

17 A. Two thousand and eleven.

18 23. Q. Was it for Realty or was it for  
19 Inc.?

20 A. It was for Realty. Inc. is not a  
21 brokerage.

22 24. Q. Right. Yes. So, that's 2011?

23 A. M'hmm.

24 MR. GOLDBLATT: Sorry. The transcript  
25 doesn't pick up if you say "m'hmm. So, if

1                   you answer in the affirmative, you have to  
2                   say yes.

3                   THE DEPONENT:       Got you.  
4

5                   BY MR. CHAITON:

6                   25.               Q.           And would you agree that as broker  
7                   of record, you're required to ensure compliance  
8                   with all applicable laws and regulations relating  
9                   to the sale of real estate by the brokerage and its  
10                  agents?

11                  A.           I agree that I, my license allows  
12                  me to adhere to the rules and regulations of REBA  
13                  2002.

14                  26.               Q.           Right. But not only adhere to it,  
15                  you're actually required as the broker of record to  
16                  ensure compliance?

17                  A.           To the best of my ability, yes.

18                  27.               Q.           And you're familiar with the  
19                  governing legislation and regulations for real  
20                  estate agents and brokerages?

21                  A.           Yes.

22                  28.               Q.           And you'll agree with me that there  
23                  is no provision of any applicable legislation or  
24                  regulation that requires agent's commissions to be  
25                  placed in a trust account?

1 A. Yes.

2 29. Q. As I understand it, with respect to  
3 deposits, when a sale transaction is completed,  
4 it's released and it's applied on account of the  
5 purchase price?

6 A. If it's a listing for the brokerage  
7 and the funds are disbursed post closing...

8 30. Q. Right.

9 A. ...those funds would be released  
10 and disbursed accordingly.

11 31. Q. So that's where TRP is the listing  
12 broker?

13 A. Listing, correct.

14 32. Q. Okay. And when it's released, it's  
15 released to be applied on account of the purchase  
16 price?

17 A. It gets released in many different  
18 forms. It could be balance to, owed to the vendor  
19 or balance owed to a cooperating brokerage, however  
20 is stipulated in the agreement with the amounts.

21 33. Q. Okay. Just so that we're clear,  
22 you have the deposit that's being held in trust by  
23 TRP as the selling broker?

24 A. Correct. Yes.

25 34. Q. Under the Agreement of Purchase and

1 Sale, when the transaction is closed, that deposit  
2 can be released and it's to be applied on account  
3 of the purchase price, subject to any other  
4 arrangements that had been made between the seller  
5 and the brokerage. Is that right?

6 A. According to each parties'  
7 solicitor's direction of where the funds would go,  
8 yes.

9 35. Q. Okay. And if the transaction  
10 doesn't close, through no fault of the purchaser,  
11 then the deposit is returned to the purchaser?

12 A. No.

13 36. Q. If it doesn't close, through no  
14 fault of the purchaser?

15 A. Then the deposit is returned to the  
16 purchaser?

17 37. Q. Right.

18 A. Not unless there's a court order.

19 38. Q. I see. So, you would hold onto it  
20 until the closing?

21 A. Unless today, they're changed the  
22 laws today where you can explicitly put that into  
23 an agreement, prior to an executed Agreement of  
24 Purchase and Sale, stating that fact that the  
25 purchasers' deposit will be returned. If, prior



1 to, I believe it was six months earlier from now,  
2 it was by mutual release or court order.

3 39. Q. Was that by agreement or your  
4 practice?

5 A. By practice.

6 40. Q. And so, what we've discussed under  
7 the Agreement of Purchase and Sale, for a  
8 particular transaction, the deposit money is held  
9 in trust for the seller or the purchaser, as their  
10 interest might be?

11 A. It's held for the interest of the  
12 transaction as per the agreement.

13 41. Q. It's in trust for either the seller  
14 or the buyer, as opposed to the transaction, it's  
15 for a particular party, you would agree?

16 A. If you look at the wording in the  
17 Agreement of Purchase and Sale, it's being held in  
18 trust for the account of this agreement, for that  
19 agreement.

20 42. Q. All right.

21 A. Yes. Which as I said, could be for  
22 the seller or for the buyer, depending on how large  
23 or small.

24 43. Q. But it's one or the other?

25 A. Yes.

1 44. Q. It's not held in trust for an agent  
2 involved in the transaction?

3 A. No. It's held in trust by the  
4 brokerage, it's not for anybody.

5 45. Q. Okay. In your affidavit you  
6 mention you're a co-founder of TRP?

7 A. Yes.

8 46. Q. All right. Who were the other co-  
9 founders?

10 A. Three other gentlemen.

11 47. Q. Who were they?

12 A. Shayan Hamidi.

13 MR. GOLDBLATT: Can you spell that?

14 THE DEPONENT: S-H-A-Y-A-N, last name  
15 H-A-M-I-D-I. Ali Haellu, A-L-I H-A-E-L-  
16 L-U. Then the third, which is a crazy  
17 last name, which is, first name is R-O-K-  
18 H-A-M and the last name, well, it has been  
19 four years, S-A-D-E-G-H-N-E-Z-H-A-D-F-A-R-  
20 A-D.

21 48. MR. CHAITON: Thank you.

22 THE DEPONENT: Do you want me to say it  
23 backwards?  
24

25 BY MR. CHAITON:

1 49. Q. I understand that TRP Inc. and TRP  
2 Realty Inc. are Federal companies?

3 A. Yes.

4 50. Q. All right. And TRP Inc. was  
5 incorporated, I think it was February of 2010?

6 A. Correct.

7 51. Q. All right. And Realty, June 2011.  
8 Does that sound right?

9 A. Sounds right. Yep. Yes.

10 52. Q. You weren't an original Director of  
11 the company. Right? Of either company?

12 A. No.

13 53. Q. And were you a shareholder at the  
14 time of incorporation?

15 MR. GOLDBLATT: Of which one?  
16

17 BY MR. CHAITON:

18 54. Q. Of either of those companies?

19 A. Not formally, no.

20 55. Q. Okay. Nor an Officer at that time?

21 A. No.

22 56. Q. So, when did you become  
23 shareholder, Officer and Director of both  
24 companies?

25 A. February 2012.

1 57. Q. At the same time, you became  
2 shareholder, Officer and Director?

3 A. When we took in the first round of  
4 funding and we created a new Shareholders  
5 Agreement.

6 58. Q. All right.

7 A. And Employment Agreements.

8 59. Q. So, aside from being a shareholder,  
9 Officer and Director, I understood you were an  
10 employee as well?

11 A. Yes, correct.

12 60. Q. When did you become an employee?

13 A. February 2012.

14 61. Q. Not before then?

15 A. I was the broker of record when the  
16 brokerage opened...

17 62. Q. All right.

18 A. ...but of the company itself.

19 63. Q. All right. And was there a written  
20 Employment Agreement?

21 MR. GOLDBLATT: Counsel, can you help  
22 me with the relevance?

23 64. MR. CHAITON: I'm asking the question,  
24 was there a written Employment Agreement?

25 MR. GOLDBLATT: In February 2012?

1       65.           MR. CHAITON:       When you became an  
2                   employee of the company.

3                   MR. GOLDBLATT:     I'm going to refuse on  
4                   the basis of relevancy unless you can tell  
5                   me how it matters.

6       66.           MR. CHAITON:       I just want to know what  
7                   it says about the duties, your duties for  
8                   the company.

9                   MR. GOLDBLATT:     Okay. That's, I'm  
10                  prepared to let...

11       67.           MR. CHAITON:       Sure. Okay.

12                  MR. GOLDBLATT:     Now I understand the  
13                  relevancy, go ahead.

14                  THE DEPONENT:       I was designated as the  
15                  Broker of Record and I don't think I was,  
16                  I don't think I was the Chief Sales  
17                  Officer until a couple of years after  
18                  that.

19       68.           MR. CHAITON:       All right.

20

21       BY MR. CHAITON:

22       69.           Q.           And when you were made Chief Sales  
23                   Officer, was that as a result of an amendment to  
24                   the Employment Agreement?

25                   A.           Yes.

1 70. Q. All right.

2 A. I don't know if it was an amendment  
3 or was an entire, brand new agreement.

4 71. MR. CHAITON: All right. Could you  
5 provide me with a copy of those  
6 Agreements, please?

7 MR. GOLDBLATT: I'm going to take it  
8 under advisement so I can review them.

U/A

9 72. MR. CHAITON: All right.

10 MR. GOLDBLATT: So, that's under  
11 advisement with respect to the Employment  
12 Agreement?

13 73. MR. CHAITON: And any amendments.

14 MR. GOLDBLATT: And any amendments.  
15 Okay.

16

17 BY MR. CHAITON:

18 74. Q. I understand that you had increased  
19 responsibilities with TRP over the time that you  
20 were there?

21 A. That's a matter of opinion.

22 75. Q. What is your opinion?

23 A. My opinion is I did what I did for  
24 the company and to make the best out of my shares.

25 76. Q. So, was there no change in your

1 responsibilities from the time you began until  
2 whenever you left?

3 A. My responsibilities were to do the  
4 best for the company, in every and all respect.

5 77. Q. Okay. I'm not sure you're  
6 answering my question, but if that's the best that  
7 you can.

8 A. As in, as business progresses,  
9 there's always an increased amount of work and  
10 responsibility.

11 78. Q. Okay. So, I take it your answer is  
12 yes, then, that over time your responsibilities for  
13 the company increased?

14 A. Naturally, yes.

15 79. Q. When did you leave TRP?

16 A. I was terminated May of 2017.

17 80. Q. You didn't mention in your  
18 affidavit that you were terminated, did you?

19 A. I'm not sure if it needed to be  
20 mentioned.

21 MR. GOLDBLATT: To be fair, at  
22 paragraph 3 he does say,  
23 "...I'm no longer an Officer or Director  
24 of either company..."  
25 And paragraph 4 says,

1                    "...Until May 2017 I was also Broker of  
2                    Record of TRP Realty..."

3            81.            MR. CHAITON:        No, I know it says that  
4                    he's no longer there, he just didn't  
5                    mention that he was terminated.

6                    MR. GOLDBLATT:     Fair.

7

8            BY MR. CHAITON:

9            82.            Q.            And I also understand that you had  
10                    commenced an Action against TRP?

11                    A.            I did.

12            83.            Q.            And you're seeking substantial  
13                    damages from TRP?

14                    A.            I was.

15            84.            Q.            No longer?

16                    A.            You tell me.

17            85.            Q.            I'm asking you the questions.

18                    A.            No.

19            86.            Q.            You're not? Okay. Is the Action  
20                    dismissed?

21                    A.            I'm not sure.

22            87.            Q.            Do you know the status of the  
23                    Action?

24                    A.            I do not.

25            88.            Q.            Okay. And are you owed any sales



1 commission by TRP?

2 A. Any sales commissions? I am owed  
3 some.

4 89. Q. Okay. Do you know approximately  
5 how much?

6 A. No.

7 90. Q. And these would be with respect to  
8 transactions that have yet to close or closed  
9 transactions?

10 A. Yet to close, some.

11 91. Q. At paragraph 6 of your affidavit,  
12 you mention that you were involved in hiring  
13 agents. And I understand that the agents were  
14 originally hired as employees. Is that right?

15 A. That was the original company  
16 vision.

17 92. Q. But to be clear, so when the agents  
18 were hired originally, and that would have been  
19 shortly after the company was incorporated and  
20 started carrying on business, they were engaged as  
21 employees on a salary basis?

22 A. Correct.

23 93. Q. No commissions payable then?

24 A. Yes, they still had them.

25 94. Q. Commissions, or?

1                   A.       They had the ability to earn  
2 bonuses and commissions.

3       95.            Q.       Okay.  And what was the commission  
4 structure?

5                   A.       It would depend.  I don't remember  
6 the original agreement, but.

7       96.            Q.       And at some point that changed.  Is  
8 that right?

9                   A.       Yes.

10      97.            Q.       Okay.  And do you know  
11 approximately when that happened?

12                   A.       Probably a year and a half, year  
13 and a half into it, so '14 probably.

14      98.            Q.       Okay.  And the change was that they  
15 then became commissioned salespeople?

16                   A.       They then had the option to become.  
17 Some stayed on a salaried program and some opted to  
18 move to the independent program.

19      99.            Q.       And when you left TRP, that  
20 remained the situation, there were some agents that  
21 were paid commissions only, some were also  
22 salaried?

23                   A.       I believe there was some still  
24 salaried, very few.

25                   MR. GOLDBLATT:       Sorry.  Off the record

1 for a second.

2

3 --- DISCUSSION OFF THE RECORD

4

5 100. MR. CHAITON: Do you happen to have the

6 Receiver's Motion Record, Counsel?

7 MR. GOLDBLATT: Yes, we have it.

8 101. MR. CHAITON: All right. If you could

9 put that in front of the witness and turn  
10 up tab N as in Norman.

11 MR. GOLDBLATT: Yes.

12 102. MR. CHAITON: All right.

13

14 BY MR. CHAITON:

15 103. Q. So, Tarik, this form of Agreement

16 was used when an agent was retained as an

17 independent contractor, or I guess, changed from

18 being an employee to an independent contractor?

19 A. This Agreement is dated February

20 2018, so I don't think I'm going to comment on

21 something I wasn't involved in.

22 104. Q. Were you familiar with this form of

23 agreement?

24 A. Familiar, yes. Yes, familiar.

25 105. Q. Do you know when this form of

1 Agreement was first used by TRP?

2 A. Probably back in the day and  
3 modified as time went on, but familiar, I would  
4 say.

5 106. Q. So, would it be more or less at the  
6 time business operations began that you were using  
7 a form of Independent Contractor Agreement?

8 A. Once we switched over to the  
9 independents, yes, this would have been similar to  
10 that.

11 107. Q. And to the best of your  
12 recollection, would it be substantially in the form  
13 of this Agreement?

14 A. Yes.

15 108. Q. Do you know who prepared that form  
16 of Agreement?

17 MR. GOLDBLATT: The original one?  
18

19 BY MR. CHAITON:

20 109. Q. Yes.

21 A. Probably, probably a combination of  
22 myself, my VP of Sales and Miller Thomson.

23 110. Q. And Miller Thomson were corporate  
24 lawyers for the brokerage?

25 A. Correct.

1 111. Q. All right. And do you know on  
2 whose instructions the Independent Contractor  
3 Agreement would have been prepared?

4 A. On whose instructions?

5 112. Q. Yes. Who at TRP would have  
6 instructed the preparation of this form of  
7 Agreement?

8 A. Together with myself, my HR and  
9 Miller.

10 113. Q. Okay. And when you say it was  
11 amended over time, do you know in what way it was  
12 amended?

13 A. Probably just differences in splits  
14 and the various small items as the business  
15 progressed, expenses, splits.

16 114. Q. Okay. And would there, other than  
17 the split of the commission...

18 A. M'hmm.

19 115. Q. ...do you know if there was any  
20 change to how commissions were dealt with?

21 A. I don't believe so.

22 116. Q. All right. And would you agree  
23 with me that there is nothing in this Agreement  
24 that requires the Brokerage to hold agent's  
25 commissions in trust?

1 MR. GOLDBLATT: Counsel, my concern  
2 about the question is I think it imposes a  
3 legal question in respect of what you're  
4 asking him. If you're asking him  
5 specifically about the use of the word  
6 "trust" in the agreement, then I have no  
7 problem with it.

8 117. MR. CHAITON: Okay.

9 MR. GOLDBLATT: Do you understand?

10 THE DEPONENT: No.

11 MR. GOLDBLATT: Anyway, go ahead.  
12

13 BY MR. CHAITON:

14 118. Q. I'm asking whether there is any  
15 express provision of this Agreement that requires  
16 the brokerage to hold agent's commissions in trust?

17 A. That probably wouldn't be part of  
18 this Agreement, it's more on the ethical and RECO's  
19 mandate of how commissions are paid out, that would  
20 supersede this Agreement.

21 119. Q. Okay. So, it's not in this  
22 Agreement. And when you talk about RECO, so that's  
23 the, what, Real Estate Commission or Council of  
24 Ontario?

25 A. Correct.

1 120. Q. Okay. And specifically what rule  
2 or term of kind of the RECO rules requires agent's  
3 commissions to be held in trust for the agent?

4 A. There's, I'm assuming, many rules  
5 on commissions and how it's paid out, but you're  
6 more than welcome to go into RECO's rules with.  
7 But the general practice is that agent's  
8 commissions are not held in trust per se for the  
9 specific explicit reason that we're using the word  
10 trust. But the normal protocol is that they are  
11 paid pending closing or pending receiving according  
12 to their Trade Record and contractual agreement.

13 121. Q. Right. And we're not getting into  
14 the question of whether they're entitled to be paid  
15 for the work they did, I'm just trying to establish  
16 that there is no requirement, express requirement  
17 under the terms of either the Agreement or the RECO  
18 rules...

19 A. I'm not sure.

20 122. Q. ...that require the brokerage to  
21 hold the agent's commission in trust for the agent?

22 A. I'm not sure.

23 123. Q. Okay. So, I had understood a  
24 moment ago that you didn't think that there was any  
25 such requirement. And if there is, would you let

1 me know what is the basis for the requirement?

2 A. I would have to, I would have to go  
3 through the, like I would have to go through them.

4 124. Q. Okay.

5 MR. GOLDBLATT: Let me make sure I  
6 understand the undertaking. It's to  
7 advise whether there is an obligation  
8 pursuant to RECO to hold agent's  
9 commissions in trust. Is that fair?

10 125. MR. CHAITON: For the agent, yes.

11 MR. GOLDBLATT: And when we talk about  
12 agent, in this case you're talking about  
13 internal agent...

14 126. MR. CHAITON: Internal agent.

15 MR. GOLDBLATT: ...not a cooperating?

16 127. MR. CHAITON: Correct.

17 MR. GOLDBLATT: Yes, that's fine.

U/T

18

19 BY MR. CHAITON:

20 128. Q. If you can look at paragraphs 9 and  
21 10 of your affidavit and perhaps refresh your  
22 memory by reading it and then I'll ask you a  
23 question.

24 A. M'hmm.

25 129. Q. I want to make sure that I



1 understand what you're saying in 9 and 10. And is  
2 that when TRP was paid a commission, it was  
3 contractually obliged to pay the agent a commission  
4 in connection with the completed sale transaction?

5 A. Correct.

6 130. Q. And that contractual obligation was  
7 to pay whatever agreed percentage the agent was to  
8 get, the agreement being as between the brokerage  
9 and the agent. Is that right?

10 A. Correct.

11 131. Q. When TRP received commission as a  
12 listing broker...

13 A. TRP received?

14 132. Q. Sorry, let's say when it received  
15 commission.

16 A. Okay.

17 133. Q. Forget about in what capacity.

18 A. M'hmm.

19 134. Q. Aside from paying the agent  
20 commission that the agent had earned in connection  
21 with the transaction, were there any other parties  
22 that received payment?

23 MR. GOLDBLATT: Sorry. I apologize, I  
24 don't understand the question. I want to  
25 make sure I understand what circumstance.

1 135. MR. CHAITON: Yes, from the commission  
2 that was received by TRP...

3 MR. GOLDBLATT: As a listing or  
4 selling, or?  
5

6 BY MR. CHAITON:

7 136. Q. Let's do it as a selling broker.

8 A. The selling broker doesn't receive  
9 commissions.

10 137. Q. So then, it would only be as the...

11 A. Seller. The listing brokerage  
12 receives the deposit, as we went over before...

13 138. Q. Right.

14 A. ...and the funds are disbursed from  
15 there, including commissions.

16 139. Q. Right. Okay. So, but they get,  
17 they receive commissions on the sale of the, on the  
18 completion of the sale of the property?

19 A. Again, are you referencing TRP  
20 receiving commissions or the agents?

21 140. Q. Yes, TRP.

22 A. So, TRP would receive the balance  
23 of what is owed post the agents getting paid their  
24 commissions.

25 141. Q. Let's do it this way then. The

1 money, the deposit is held in trust?

2 A. Yes.

3 142. Q. The transaction closes?

4 A. Correct.

5 143. Q. It may be released from trust?

6 A. Yes.

7 144. Q. At that time??

8 A. Correct.

9 145. Q. All right. And that deposit, to

10 the extent that it is less than the commission,  
11 total amount of the commission that TRP has earned,  
12 goes to TRP, they bring it in, they take it in?

13 A. Correct.

14 146. Q. Okay. And then, when they do that,  
15 who is entitled to be paid from that commission?

16 A. All the parties that are  
17 contractually due, obligated and due at the time.

18 147. Q. Okay. And who would they be?

19 A. Agents from our side and/or agents  
20 from the cooperating side.

21 148. Q. Okay. And is the money actually  
22 paid by TRP to the agent on the cooperating side or  
23 is it paid to the cooperating broker?

24 A. Yes. It's paid to the cooperating  
25 brokerage.

1 149. Q. Okay. And they deal with their own  
2 agents?

3 A. Correct.

4 150. Q. All right. So, TRP is entitled to  
5 be paid commission on the closing?

6 A. Yes. As per the listing, as per  
7 the listing, yes.

8 151. Q. Right. TRP agents are entitled to  
9 be paid?

10 A. As per the Trade Record Sheet, yes.

11 152. Q. Cooperating brokers?

12 A. As per their Commission Trust and  
13 Buyer Representation Agreement and their invoice.

14 153. Q. Okay. And anyone else?

15 A. No.

16 154. Q. What about cash back buyers?

17 A. Cash back was paid post, everything  
18 from the proceeds.

19 155. Q. Sorry. Can you explain that?

20 A. Cash back was paid from proceeds  
21 post everybody else getting paid out.

22 156. Q. Okay. But it was paid from the  
23 commissions?

24 A. No.

25 157. Q. So, that wasn't the source of

1 payment of cash back?

2 A. No.

3 158. Q. All right. And for the record, can  
4 you explain what cash back is?

5 A. Cash back in the form of, the cash  
6 back is meant to be giving back a portion of the  
7 transaction commission fees, with reference to  
8 anybody being party to the transaction.

9 159. Q. So, is it paid to...

10 A. It could be paid to a seller, it  
11 could be paid to the buyer, as long as they're a  
12 party to the transaction when it's closed.

13 160. Q. But it's one or the other?

14 A. Sorry?

15 161. Q. It's one or the other or both?

16 A. Well, usually the purchaser.

17 162. Q. Okay. You would have been an  
18 Officer and Director in February of 2017, at the  
19 time Firepower became the lender to TRP?

20 A. Yes.

21 163. Q. I'm showing you, this was Exhibit C  
22 to the affidavit of Jared Kalish sworn June 13,  
23 2018, that was filed in support of the Receivership  
24 Application, and there is a copy of a Loan  
25 Agreement between Firepower and RedPin. I'll just

1 show it to you because I don't believe you have  
2 that.

3 A. I don't have a copy of that.

4 164. Q. So, I wanted to confirm that you  
5 signed that document on behalf of TRP, and it's  
6 probably near the end of that tab.

7 A. Yes, it's probably at the second.  
8 Yes.

9 165. Q. Okay.

10 A. Yes.

11 166. Q. And if you go...do you remember the  
12 transaction? Do you remember the amount of the  
13 loan, 3.5 million?

14 A. Yes.

15 167. Q. Does that sound right?

16 A. About that, yes.

17 168. Q. Okay. And its purpose was to pay  
18 out an existing lender and to provide working  
19 capital for TRP?

20 A. Correct.

21 169. Q. And do you recall who the existing  
22 lender was?

23 A. Quantius.

24 MR. GOLDBLATT: Do you want to spell  
25 that?

1 THE DEPONENT: Q-U-A-N-T-I-U-S.

2 170. MR. CHAITON: I think that's right.

3

4 BY MR. CHAITON:

5 171. Q. Quantius was what, an alternative  
6 lender?

7 A. Quantius was a similar lender to  
8 your client.

9 172. Q. Okay.

10 A. Who was referred to me by your  
11 client.

12 173. Q. Okay. Were there any other lenders  
13 of TRP at the time?

14 A. There was Comerica.

15 174. Q. Comerica Bank?

16 A. Yes.

17 175. Q. All right. And what is your  
18 recollection as to the nature of the credit  
19 facility or credit facilities that Comerica Bank  
20 had provided TRP?

21 A. It was a revolving line.

22 176. Q. For operating purposes?

23 A. For operating purposes as well.

24 177. Q. Okay. And was the amount of those  
25 borrowings margined against accounts receivable?

1                   A.       Under the formula that we had come  
2 up together with, yes.

3       178.           Q.       Okay. I assume that TRP had used a  
4 lawyer in connection with this loan transaction  
5 with Firepower?

6                   A.       Yes.

7       179.           Q.       And that's Miller Thomson?

8                   A.       Correct.

9       180.           Q.       And I take it before signing this  
10 document, you would have read it or had it  
11 explained to you?

12                   A.       I would have read it, along with, I  
13 guess, other, 90 other items of security for  
14 closing.

15       181.           Q.       Right. Okay. But you would have  
16 read it or certainly had the opportunity to read  
17 it?

18                   A.       Yes.

19       182.           Q.       And were these reviewed with the  
20 assistance of your lawyer?

21                   A.       Yes.

22       183.           Q.       I'm sorry, I just want to take you  
23 to a couple of provisions. You'll see in section  
24 29 the preamble that I've highlighted, if you could  
25 read that on the record.



1 MR. GOLDBLATT: Read it out loud.  
2 THE DEPONENT: "...Each of the obliges  
3 represents and warrants as follows to the  
4 agent and acknowledges and confirms that  
5 the agent and the lenders are relying upon  
6 such representations and warranties in  
7 granting the loan and making any advances  
8 hereunder..."  
9

10 BY MR. CHAITON:

11 184. Q. Okay. And so, you understood that  
12 there was reliance by Firepower on the  
13 representations and warranties which follow?

14 A. As it's worded, yes.

15 185. Q. And if you look at subparagraph J,  
16 I think it is, that highlighted passage at the end,  
17 if you could read that.

18 A. "...Any and all representations and  
19 warranties made by the obligers pursuant  
20 to any credit documents are true, accurate  
21 and correct in all material respects and  
22 any and all other applications, books,  
23 records, financial statements or other  
24 documents delivered to the agent or any  
25 lender or by and upon on behalf of the

1 obligers prior to the date hereof in  
2 connection with the agents or any lenders  
3 due diligence review or otherwise do not  
4 contain any material misrepresentation as  
5 to the matters set out therein..."

6 186. Q. Okay. And so, by signing this  
7 Agreement, you've made that representation to  
8 Firepower. Correct?

9 A. Yes. Assuming, yes, that's right.

10 187. MR. CHAITON: I would like to make a  
11 copy of the Loan Agreement as an exhibit.  
12 I don't have it separate with me right  
13 now, we can copy it after.

14 MR. GOLDBLATT: That's fine. I'm  
15 content to have it as an exhibit on  
16 Tarik's Cross-Examination. It's already  
17 in the Record.

18 188. MR. CHAITON: Yes, it's just not in the  
19 material currently before the court on  
20 this motion.

21 MR. GOLDBLATT: I have no problem with  
22 it becoming Exhibit 1 to his Cross-  
23 Examination.

24 189. MR. CHAITON: Thank you.

25 MR. GOLDBLATT: I'm sorry, Counsel,



1 TRP Realty to Firepower?

2 MR. GOLDBLATT: And for the sake of the  
3 record, it's Exhibit H to Mr. Kalish's  
4 initial affidavit.

5 MR. GOLDBLATT: Correct.  
6

7 BY MR. CHAITON:

8 196. Q. All right. And if you look at the  
9 last page and just confirm that you signed that  
10 Security Agreement on behalf of TRP.

11 A. Yes.

12 197. Q. Okay. And then you'll see from,  
13 are you familiar with General Security Agreements?

14 A. For the most part.

15 198. Q. Okay. And you understand that they  
16 grant security on all of the property and assets of  
17 the borrower?

18 A. As an opinion, yes.

19 199. Q. Okay. You can see, if you need to  
20 just confirm it, that the collateral for the loan  
21 includes the accounts receivable of TRP Realty. Do  
22 you see that in Section 3(c)?

23 A. Yes, I see that.

24 200. Q. Okay. And I'm showing you  
25 subparagraph 8(c), which is in the Representations

1 and Warranties section. And if you could read the  
2 representation that's made in subsection (c),  
3 please.

4 A. "...Except for the security  
5 interest, the Comerica security interest,  
6 the permitted encumbrances and other liens  
7 explicitly permitted pursuant to the terms  
8 of the Loan Agreement, the collateral is  
9 owned by the guarantor free from any  
10 mortgages, liens, charges, encumbrances,  
11 pledged security interest or other claim  
12 whatsoever..."

13 201. Q. Okay. And I don't expect you to  
14 necessarily be able to do it right here, but if you  
15 could let me know, firstly, whether the agent's  
16 interest in the commission is a permitted  
17 encumbrance. All right?

18 MR. GOLDBLATT: So, the question is, to  
19 advise whether agent's interest?

20 202. MR. CHAITON: In the commission is a  
21 permitted encumbrance.

22 MR. GOLDBLATT: As a matter of law?

23 203. MR. CHAITON: Pardon?

24 MR. GOLDBLATT: As a matter of law?

25 204. MR. CHAITON: No, just as a matter of

1 agreement between Firepower and  
2 yourselves. And if you say that it is, I  
3 need you to show me what is the provision  
4 in this Agreement, or.

5 THE DEPONENT: I guess it's a matter of  
6 interpretation of what would be a  
7 permitted encumbrance.

8 205. MR. CHAITON: Yes. It's a defined  
9 term, so if you can point to me what  
10 provision of the Agreement makes the  
11 agent's interest in the commission a  
12 permitted encumbrance, I would appreciate  
13 that.

14 MR. GOLDBLATT: Yes, we'll do that. U/T

15 206. MR. CHAITON: Okay. And I would like  
16 to make this General Security Agreement  
17 Exhibit 2 on the Cross-Examination.

18 MR. GOLDBLATT: Sure.

19

20 --- EXHIBIT NO. 2: General Security Agreement given by  
21 TRP Realty to Firepower

22

23 BY MR. CHAITON:

24 207. Q. Now, Tarik, you, I take it, are  
25 aware that Jared Kalish swore an affidavit of

1                   October 9, 2018?

2                   A.           Yes.    Yes.

3           208.           Q.           Have you read it before today?

4                   A.           Again, briefly.

5           209.           Q.           Okay.  And at paragraph 7 of that  
6           affidavit.

7                   A.           Yes.

8           210.           Q.           Mr. Kalish indicates that Firepower  
9           conducted due diligence in connection with the  
10          loan?

11                  A.           That's correct.

12          211.           Q.           And that was done in the fall of  
13          2016?

14                  A.           Correct.

15          212.           Q.           And in connection with the due  
16          diligence, TRP provided Firepower with the  
17          documents and information listed in paragraph 7,  
18          you confirm that?

19                  A.           We provided them with many things.

20          213.           Q.           Well, among what was given...

21                  A.           Among.

22          214.           Q.           ...would this have been included?

23                  A.           Yes.

24          215.           Q.           All right.  And part of that  
25          material includes Audited Financial Statements of

1 TRP that was prepared by your auditors KPMG?

2 A. Correct.

3 216. Q. And as a member of the board did  
4 you approve these Financial Statements?

5 A. Yes.

6 217. Q. And I'm showing you a  
7 representation letter, this is on TRP letterhead  
8 addressed to KPMG, the auditor, dated October 11,  
9 2016. And it was provided in connection with the  
10 Audited Financial Statements as at December 31,  
11 2015.

12 Can you confirm that you signed that  
13 letter on behalf of TRP?

14 A. Yes.

15 218. MR. CHAITON: All right. Can we make  
16 that letter the next exhibit?

17 MR. GOLDBLATT: Yes, Exhibit 3, October  
18 11, 2016 letter from TRP to KPMG.

19

20 --- EXHIBIT NO. 3: Representation Letter on TheRedPin  
21 letterhead to KPMG dated October  
22 11, 2016

23

24 BY MR. CHAITON:

25 219. Q. In connection with the borrowings



1 from Comerica Bank, TRP was required to provide  
2 monthly or otherwise regular Borrowing Base  
3 Certificates?

4 A. Yes.

5 220. Q. And at tab F of Mr. Kalish's  
6 affidavit he has provided a copy of the Borrowing  
7 Base Certificate, I believe it's for November, it  
8 was for the month of November 2016. But if you  
9 could turn to page 3 and confirm you signed this on  
10 behalf of TRP?

11 A. Yes.

12 221. Q. All right. And you're familiar  
13 with this document?

14 A. Yes.

15 222. Q. Were you involved in its  
16 preparation?

17 A. No.

18 223. Q. But you would review it before you  
19 signed it?

20 A. Yes.

21 224. Q. And were you typically the one who  
22 signed it?

23 A. Yes.

24 225. Q. All right. And would you agree  
25 with me that none of the deductions from accounts

1 receivable include the agents' share of any  
2 commissions?

3 A. As per the Agreement that I had  
4 with Comerica, yes, but not reflected, it doesn't  
5 mean that it's not warranted.

6 226. Q. In this document. Okay. But by  
7 the Agreement it wasn't part of the deductions from  
8 the receivables that you would report to the bank?

9 A. It was an agreed to formula and a  
10 reporting structure that they had come up with, not  
11 me.

12 227. Q. I see. Okay. But to be clear, in  
13 telling Comerica Bank the amount of your  
14 receivables, you were not deducting for purposes of  
15 your borrowing base calculation, the amount of  
16 commissions that were...

17 A. It was assumed and I gave that.

18 228. Q. Okay. If you can turn up paragraph  
19 15 of your affidavit.

20 A. Yes.

21 229. Q. You say there that TRP Realty was  
22 obliged to pay out to other parties or the amount  
23 of commission that they were required to pay out to  
24 other parties, did not belong to TRP Realty as per  
25 Agreements and Trade Records.

1                   So starting with the Agreements, which  
2                   Agreements are you referring to there?

3                   A.           The Independent Contractors  
4                   Agreements.

5           230.           Q.           Any other agreements?

6                   A.           No.

7           231.           Q.           Okay. And those Independent  
8                   Contractor Agreements were, in all materials  
9                   respects, the same for each agent, except perhaps  
10                   as to the split?

11                   A.           The Independents were all fairly  
12                   similar, yes.

13                   MR. GOLDBLATT:       Just off the record for  
14                   one second.

15

16           ---   DISCUSSION OFF THE RECORD

17

18           BY MR. CHAITON:

19           232.           Q.           And then, going to the trade  
20                   record, and there is a sample of that at Dennise  
21                   Paccione's affidavit at tab 7, if you can turn that  
22                   up.

23                   MR. GOLDBLATT:       Sorry, tab?

24           233.           MR. CHAITON:       Or, sorry.

25                   MR. GOLDBLATT:       Yes, we're there.

1 BY MR. CHAITON:

2 234. Q. Okay. And you've emphasized in  
3 your affidavit the sentence in the middle of the  
4 page of this document on the right side, where it  
5 says,

6 "...It is understood between all parties  
7 that this agreement shall constitute a  
8 Commission Trust Agreement as set out in  
9 the contract...",

10 which contract are you referring to?

11 A. This is a form that is produced  
12 through a software provider, so. And it also is  
13 referring to the Agreement of Purchase and Sale.

14 235. Q. So, that's the contract you're  
15 talking about?

16 A. Yes, I believe so.

17 236. Q. Okay. And that Agreement of  
18 Purchase and Sale, to the extent that it  
19 establishes a commission trust, is between the  
20 selling broker and the listing broker. Correct?

21 A. Correct.

22 237. Q. Or I should say the cooperating  
23 broker?

24 A. The listing and the cooperating.

25 238. Q. The listing broker and the

1 cooperating broker?

2 A. Correct.

3 239. Q. Not the agents directly?

4 A. No.

5 MR. GOLDBLATT: Off the record.

6 MR. KAUFFMAN: When he's saying no,  
7 he's agreeing with you.

8 MR. GOLDBLATT: Sorry, just off the  
9 record.

10

11 --- DISCUSSION OFF THE RECORD

12

13 BY MR. CHAITON:

14 240. Q. All right. So, before we went off  
15 the record, you answered no to the question. I  
16 just want to confirm, your answer meant you agreed  
17 with me?

18 A. Refresh me the question.

19 241. Q. That the, you had mentioned in the  
20 Trade Record the reference to the Commission Trust  
21 Agreement set out in the contract, hence the  
22 Agreement of Purchase and Sale, that's the contract  
23 it refers to?

24 A. I'm not a hundred percent correct  
25 as exactly what it's referencing, but that would be

1 my assumption.

2 242. Q. Okay. And then, we were talking  
3 about the commission trust arrangement being an  
4 arrangement between the listing broker and the  
5 cooperating broker. Correct?

6 A. Yes.

7 243. Q. Okay. And it wasn't an arrangement  
8 directly with any of the agents. Correct?

9 A. There was an agent attached to the  
10 transaction at the time.

11 244. Q. A Commission Trust Agreement is not  
12 with a particular agent, it's between the  
13 brokerages?

14 A. Correct.

15 245. Q. In paragraph 20 you discuss how the  
16 commission is dealt with.

17 MR. GOLDBLATT: Yes, we're there.

18

19 BY MR. CHAITON:

20 246. Q. In subsection (d) you refer to the  
21 fact that,

22 "...The commissions are deposited to the  
23 commissions account in accordance with TRP  
24 Realty's obligations and in particular,  
25 TRP agents' entitlement set out in the

1 Contractor's Agreement..."

2 So, is that the sole contract that you're relying  
3 on in subsection (d)?

4 MR. GOLDBLATT: Do you understand the  
5 question?

6 THE DEPONENT: Yes, I do. It is, I  
7 believe the, obviously, it clearly says  
8 the Contractor's Agreement, but again,  
9 that also encompasses their, the idea of  
10 compensation through, again, through the  
11 obligations of RECO to pay our agents.  
12

13 BY MR. CHAITON:

14 247. Q. Right. The obligation to pay  
15 agents?

16 A. Right.

17 248. Q. There is no dispute that the agents  
18 are entitled to be paid?

19 A. Right.

20 249. Q. All we're talking about is, where  
21 is the obligation that you're alleging to hold the  
22 agents' commission in trust?

23 A. It wasn't supposed to be held, it's  
24 supposed to be paid.

25 250. Q. When it's received?

1 A. Yes.

2 251. Q. In the first instance?

3 A. Yes.

4 252. Q. Is it your position it's received  
5 in trust or there is just simply an obligation to  
6 pay?

7 MR. GOLDBLATT: Sorry. I don't  
8 understand the question. Can you put it  
9 again?

10 253. MR. CHAITON: I'm not sure there is  
11 another way to phrase it.

12

13 BY MR. CHAITON:

14 254. Q. When the commissions are  
15 received...

16 A. Yes.

17 255. Q. ...are they received in trust for  
18 the agent or is there simply a contractual  
19 obligation to pay the agent the commission?

20 MR. GOLDBLATT: Counsel, our position,  
21 as you know, is that as a matter of law,  
22 we say the funds are impressed with the  
23 trust in favour of the agents.

24 256. MR. CHAITON: Right. And you're going  
25 to show me or direct me to any contractual



1 provision that so provides. Is that  
2 right?

3 MR. GOLDBLATT: Well, you've seen the  
4 contract with respect to the agents and  
5 then the rest in terms of what establishes  
6 a trust as a matter of law. You have our  
7 materials or you'll get our legal  
8 materials and you'll see what we have in  
9 terms of what we say constitutes the  
10 entirety of why we say there is a trust  
11 over those funds.

12 257. MR. CHAITON: Well, to the extent there  
13 is any contractual provisions, I want to  
14 know what they are.

15 MR. GOLDBLATT: To the extent there is  
16 any other that we rely on other than the  
17 Independent Contractors Agreement, we'll  
18 let you know.

U/T

19 258. MR. CHAITON: Okay. At the moment, are  
20 there any, to your knowledge?

21 MR. GOLDBLATT: Well, we would say that  
22 the various documents, including the Trade  
23 Records, confirm and reflect the existence  
24 of the contractual agreement to hold the  
25 funds in trust.

1 259. MR. CHAITON: I'm talking about for the  
2 agents. We just established that the  
3 Trade Record doesn't establish a trust for  
4 the agents, it's just for the brokerages.  
5 That's what the evidence is.

6 MR. GOLDBLATT: Well, you got his view  
7 in respect of that. That's, I'm not going  
8 to, let's have this debate off the record.  
9 I'm not going to sit here talking about  
10 what my view is in respect of the evidence  
11 that has been given.

12 260. MR. CHAITON: I'm entitled to  
13 understand the basis for the position  
14 that's being taken.

15 MR. GOLDBLATT: Right.

16 261. MR. CHAITON: And to the extent that  
17 it's a contractual basis, I am entitled to  
18 know the provisions of the contracts.

19 MR. GOLDBLATT: And this is a Cross-  
20 Examination of Mr. Gidamy.

21 262. MR. CHAITON: Right.

22 MR. GOLDBLATT: And you know, for us to  
23 have the discussion in respect of what the  
24 legal position is and what the documents I  
25 rely on, I don't think is appropriate in

1                   respect of his Cross-Examination.

2           263.           MR. CHAITON:        You wanted to say  
3                   something.

4           THE DEPONENT:       Go ahead.

5           264.           MR. CHAITON:        All right.

6

7           BY MR. CHAITON:

8           265.           Q.           In paragraph 21 you say,  
9                   "...The reason why the funds were paid to  
10                   the commission's account rather than  
11                   directly to the agents is because they  
12                   must be paid by the brokerage..."?

13           A.           Correct.

14           266.           Q.           All right. And would you agree  
15                   that it would have been perfectly permissible for  
16                   the agent to be paid out of the operating account  
17                   of the company?

18           A.           If that was another broker's  
19                   practice, there's no preferred way.

20           267.           Q.           Right. But it was legally possible  
21                   to pay them out of an operating account, rather  
22                   than a commission account?

23           A.           I would have to go back into the  
24                   rules, I'm not a hundred percent sure.

25           268.           Q.           All right. Well, if you conclude

1 that you had to pay it out of the commission  
2 account, rather than out of an operating account, I  
3 would like to know the rule or provision of any  
4 legislation.

5 A. You can look up the rules on your  
6 own.

7 269. Q. No, I'm...

8 A. Our normal practice was to...

9 270. Q. That's not what I'm asking you,  
10 what your practice was.

11 MR. GOLDBLATT: We'll undertake to  
12 advise you.

U/T

13 271. MR. CHAITON: Thank you.

14

15 BY MR. CHAITON:

16 272. Q. Tarik, we've talked about the  
17 Comerica Bank loan arrangements and I have here a  
18 copy of the Loan Agreement, together with a number  
19 of Amendments to the Agreement that were made.

20 The Amending Agreements all have  
21 signatures, but I don't have a signed copy of the  
22 original Loan Agreement. And I'm wondering if you  
23 can just look at those documents and confirm that  
24 they appear to be the Loan Agreement with Comerica  
25 Bank.

1                   A.       Twenty fifteen.  These are  
2                   Amendments to the original Agreement, yes.

3       273.           Q.       All right.  And you signed the  
4                   Amending Agreements?

5                   A.       Yes.

6       274.           Q.       Do you know offhand if you would  
7                   have signed the original Loan Agreement?

8                   A.       No, I did not.

9       275.           Q.       Do you know who did?

10                  A.       My first partner, Shayan Hamidi.

11       276.           Q.       Okay.  And as we had previously  
12                  discussed, there are monthly Borrowing Base  
13                  Certificates and Compliance Certificates that had  
14                  to be provided by TRP to the bank?

15                  A.       Correct.

16       277.           Q.       Okay.  And I'm showing you the  
17                  Compliance Certificate for May 31, 2017 to confirm  
18                  that you signed that Certificate?

19                  A.       I'm not sure of the date that I  
20                  signed it.

21       278.           Q.       But is that your signature?

22                  A.       That is my signature.

23       279.           Q.       Okay.  And that Certificate would  
24                  have been provided to the bank?

25                  A.       Yes.  I assume so.

1           280.           Q.           Okay. And in signing that, if you  
2 look at the second page, just above your signature,  
3 you're confirming that the terms and conditions of  
4 the Loan Agreement were in compliance?

5                   A.           Yes.

6           281.           Q.           All right. And you'll agree with  
7 me that wasn't true at the time?

8                   MR. GOLDBLATT:       Sorry. I don't  
9 understand the question.

10

11 BY MR. CHAITON:

12           282.           Q.           Was it true, that at the time you  
13 signed that document, you were in full compliance  
14 or TRP was in full compliance with all the terms  
15 and conditions of the Comerica Loan Agreement?

16                   A.           I'm not sure.

17           283.           Q.           And in fact, just two weeks prior  
18 to you signing that document, you received, TRP  
19 received a letter from Firepower indicating that it  
20 was in default under their Loan Agreement, do you  
21 recall that?

22                   A.           Yes, I do.

23           284.           Q.           All right. Can we make...

24                   A.           That at the time, that was taken at  
25 the time that I had been terminated, prior to

1 being, just prior to being, actually, right after  
2 being terminated, so I have no responsibility for  
3 this letter.

4 285. Q. Right. But that letter preceded  
5 the Certificate?

6 A. I don't know if the Certificate was  
7 given to Comerica or altered or anything because  
8 it's as of end of May 17 and I wasn't there at the  
9 time.

10 286. Q. All right. But you signed it?

11 A. I preemptively signed it for  
12 whatever reason to be submitted.

13 287. MR. CHAITON: Okay. So, if we could  
14 make the Certificate as the next exhibit.

15 MR. GOLDBLATT: Yes.

16 288. MR. CHAITON: So, that's the Compliance  
17 Certificate.

18 THE DEPONENT: And I'm not sure if this  
19 letter is relevant to that document  
20 because these are two different, two  
21 different loans, they had different  
22 covenants and they had different  
23 covenants.

24 So, if this was referencing to the  
25 breach of the covenants for Firepower it

1 would have zero relevance to the matter of  
2 Comerica.

3 289. MR. CHAITON: Well, we can deal with  
4 that argument in court.

5 MR. GOLDBLATT: Well, let's do this,  
6 let's mark the Compliance Certificate as  
7 Exhibit 4.

8 290. MR. CHAITON: Yes.

9

10 --- EXHIBIT NO. 4: Compliance Certificate for May 2017

11

12 291. MR. CHAITON: And the letter from  
13 Firepower to RedPin dated May 19, 2017 in  
14 respect, the period was, in respect of the  
15 period ended May 31, 2017.

16 MR. GOLDBLATT: In respect of the  
17 letter, I prefer to mark it for  
18 identification as it was not sent to Mr.  
19 Gidamy.

20 292. MR. CHAITON: All right.

21

22 --- EXHIBIT NO. 5: (For identification) Letter to  
23 RedPin from Firepower dated May 31,  
24 2017

25



1       293.               MR. CHAITON:       Can we go off the record,  
2                               for a few minutes?

3                               MR. GOLDBLATT:     Sure.  
4

5       ---     Upon recessing at 12:00 p.m.

6       ---     A BRIEF RECESS

7       ---     Upon resuming at 12:10 p.m.  
8

9       294.               MR. CHAITON:       So, Tarik, I have no  
10                               further questions at this time. Subject  
11                               to any questions arising out of the  
12                               answers to the undertakings, let's adjourn  
13                               the examination.

14                               MR. GOLDBLATT:     Okay. No Re-Exam.

15       295.               MR. CHAITON:       Thank you.

16                               MR. GOLDBLATT:     You're done.  
17

18       ---     Upon adjourning at 12:10 p.m.

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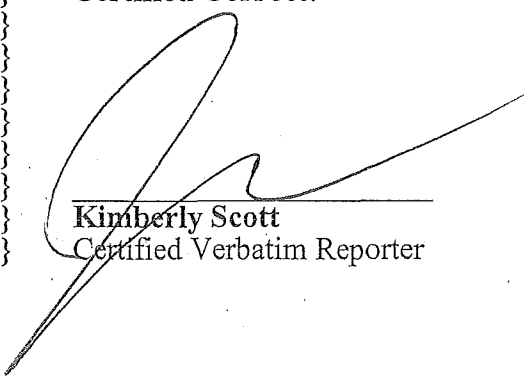
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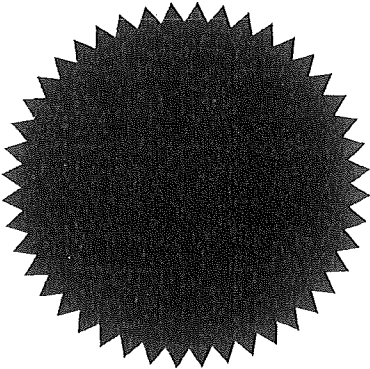
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I hereby certify the foregoing to be a true and accurate transcription of the above-noted proceedings held before me on the **11th DAY OF October, 2018**, and taken to the best of my skill, ability and understanding.

**Certified Correct:**

  
\_\_\_\_\_  
**Kimberly Scott**  
Certified Verbatim Reporter



**TAB A**

## LOAN AGREEMENT

This Loan Agreement is in three parts, A, B and C, all of which collectively, together with the schedules and exhibits hereto, form the Loan Agreement (referred to herein as this "Agreement").

This Loan Agreement is entered into between the Borrower, the Obligors, the Lenders and the Agent (each as hereinafter defined) as of February 15, 2017 (the "Closing Date").

### PART "A" VARIABLE TERMS

#### DEFINED TERMS:

Capitalized terms used in this Agreement shall have (unless otherwise provided elsewhere in this Agreement, including Schedule "A") the following respective meanings:

#### PARTIES:

1. **Borrower:** TheRedPin, Inc.
2. **Initial Guarantors:** TheRedPin Brokerage, BC Inc., TheRedPin.com Realty Inc. and TheRedPin Mortgage Brokerage Inc.

#### WARRANT TERMS:

3. **Warrant Issuer:** The Borrower
4. **Warrant Shares:** Common shares in the capital of the Warrant Issuer, issuable upon the exercise of warrants in such number and in accordance with the terms and provisions of the warrant certificate.
5. **Warrant Exercise Price:** 2% of the issued and outstanding shares of the Borrower on an as converted to common shares basis at a strike price of \$0.0001 per Warrant Share, and including (i) any shares issuable as accrued cumulative dividends pursuant to the attributes of the preferred shares of the Borrower; and (ii) all vested options to purchase shares in the capital of the Borrower with an exercise price equal to \$0.001; and  
1.5% of the issued and outstanding shares of the Borrower on an as converted to common shares basis at a strike price equal to \$13.00 (the "FMV Share Price") per Warrant Share, and including (i) any shares issuable as accrued cumulative dividends pursuant to the attributes of the preferred shares of the Borrower; and (ii) all vested options to purchase shares in the capital of the Borrower with an exercise price

equal to \$0.001; and

1% of the issued and outstanding shares of the Borrower on an as converted to common shares basis at a strike price equal to 150% of the FMV Share Price per Warrant Share, and including (i) any shares issuable as accrued cumulative dividends pursuant to the attributes of the preferred shares of the Borrower; and (ii) all vested options to purchase shares in the capital of the Borrower with an exercise price equal to \$0.001.

6. **Issued Warrants:** 42.5% of Warrants to Other Lender.  
57.5% Warrants to Firepower.
7. **Warrant Term:** Six (6) years from the Closing Date, and for greater certainty, the Warrants shall not expire on the Termination Date.

**LOAN SPECIFIC DEAL TERMS:**

8. **Maximum Amount:** \$3,500,000 aggregate principal amount.
9. **Purpose:** The proceeds of the Loan may only be used to repay outstanding obligations to Quantius SPV 1 Inc., and for general operating purposes.
10. **Initial Advance Amount:** The Maximum Amount.
11. **Initial Advance End Date:** The date that is thirty (30) days after the date of this Agreement.
12. **Additional Conditions Precedent to Initial Advance:** Life insurance on the life of Tarik Gidamy, in form and substance satisfactory to the Agent, in an amount no less than \$1,500,000 with the Agent listed as beneficiary (the "Key Man Insurance")
13. **Maturity Date:** Three (3) years from the date of this Agreement
14. **Interest Rate:** 15 % per annum.
15. **Interest Deposit:** A deposit equal to \$260,342 (the "Interest Deposit") shall be deducted from the first Advance and shall be applied by the Agent to payments of Interest due by the Borrower to the Agent as and when they become due until such time as the Interest Deposit is fully depleted. The Interest Deposit is non-refundable, and in the event of termination of this Agreement for any reason the Interest Deposit shall be applied by the Agent to the Obligations as set out in this



Agreement.

**16. Comerica Permitted  
Senior Debt:**

Notwithstanding the provisions of this Agreement that require that the security interest of the Agent be at all times a first ranking claim over all personal property of the Obligors, the Agent and the Lenders agree that such security interest may be junior in priority to the security interest of Comerica Bank or any entity that is a bank listed in Schedules I, II or III of the Bank Act (Canada) (a "Bank"), or any other entity with the prior written approval of the Agent, acting reasonably, and that is a successor or assign of Comerica's interest or the holder of obligations that replace Comerica's interest on substantially similar terms (collectively, "Comerica"), securing an amount not to exceed the amount of indebtedness of the Borrower to Comerica permitted by this Agreement (the "Comerica Security Interest"), provided that: (i) the principal amount outstanding of the obligations to Comerica including, without limitation, the aggregate of all obligations pursuant to the Comerica Card (as defined below), and obligations in respect of the revolving term facility loan does not exceed \$1,500,000, without the prior written consent of the Agent, which shall not be unreasonably withheld (the "Comerica Term Facility"), (ii) the principal amount of the obligations to Comerica pursuant to an agreement for the use of a credit card provided by Comerica does not exceed \$100,000 without the prior written consent of the Agent, which shall not be unreasonably withheld (the "Comerica Card"), (iii) the Borrower shall promptly notify the Agent of any amendments to any documentation between Comerica and any Obligor, (iv) the Borrower shall, promptly upon receipt thereof, provide copies of any communications or related documentation between Comerica and any Obligor (A) concerning any event of default (including any allegation that an act is an event of default), or any act, event, omission or thing that could be an event of default if not waived or consented to the by Comerica, (B) occurring during the continuance of an event of default pursuant to the Comerica Term Facility, (C) involving any consent, forbearance, accommodation or waiver, or (D) threatening to terminate the Comerica Term Facility or any document ancillary thereto (v) and default of breach by any agreements between Comerica and any Obligor shall be an Event of Default pursuant to this Agreement. Any intercreditor agreement between the Agent and Comerica shall provide that upon the occurrence of the continuance of an Event of Default for ten (10) or more calendar days, the Agent or the Lenders shall have the right (but not the obligation) to repay the obligations of the Obligors to Comerica existing at such time, including without limitation, the Comerica Term Facility, the Comerica Card and any prepayment fees, legal fees, and other amounts owing (collectively the "Comerica Obligations"). Upon the payment of the Comerica Obligations, or successor to the

Comerica obligations referred to in this section, at the election of the Agent the Agent may (A) add the amount of the Comerica Obligations to the principal amount of the Loan Outstanding, or (B) require that the Obligors enter into a loan agreement (the "Additional Loan Agreement") and ancillary documents with the Agent and either or both Lenders or another lender designated by the Agent. The terms of the Additional Loan Agreement (if any) shall be on the same or substantially similar terms as the loan agreement and ancillary documents with Comerica, or on the same terms as this Loan Agreement and the Credit Documents, and the Obligors agree to enter into such agreements if so requested by the Agent.

**FEES AND YIELD ENHANCEMENT:**

**17. Prepayment Fee:** The "Prepayment Fee" shall be equal to the discounted cash flow of all interest payments due on the prepaid amount that would have been payable on the prepaid amount from the date of such prepayment to the Maturity Date in accordance with the following formula:

$$\text{Prepayment Fee} = \frac{SIP\ 1}{(1+r)^1} + \frac{SIP\ 2}{(1+r)^2} + \dots + \frac{SIP\ n}{(1+r)^n}$$

Where:

"SIP" means scheduled interest payment, and SIP 1, SIP 2, ...SIP n, refers to each SIP that would have been made after the date of prepayment in accordance with this Agreement had the prepayment not occurred, with "n" representing the total number of such payments, and, for this purposes of this calculation only, ignoring any provisions in this Agreement that interest is not required to be paid by the Borrower to the Lender for a certain period of time; and

"r" means a discount rate equal to the Canadian 2 year bond yield existing on the date of such repayment plus 0.50%.

Notwithstanding the foregoing, in the event of a sale of the business, at an implied price of not less than \$13 per common share on a fully-diluted basis, the Prepayment Fee will not be greater than 7.5% of the Maximum Amount.

**18. Underwriting Fee:** The "Underwriting Fee" means an amount equal to \$70,000.

**19. Warrants:** Contemporaneously with the Initial Advance of the Loan, the Warrant Issuer shall issue the Issued Warrants represented by warrant certificates in a form and containing terms acceptable to the Agent in its sole discretion which warrants are to remain in effect for

a period of six (6) years from the Closing Date.

The Warrant Issuer hereby represents that the Issued Warrants, and the Warrant Shares issuable upon exercise of the Issued Warrants in accordance with the terms thereof have been duly authorized and, upon their issuance in accordance with the terms of this Agreement or the Issued Warrants, as the case may be, the Issued Warrants and the Warrant Shares will be validly issued and will constitute binding obligations of the Warrant Issuer enforceable in accordance with their terms. The issuance of the Warrant Shares issuable upon due exercise of the Issued Warrants in accordance with the terms thereof has been duly approved and, upon any exercise (or partial exercise) of the Issued Warrants, the Warrant Shares issued on such exercise shall be issued as fully-paid and non-assessable shares, except as enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the rights of creditors generally and except as limited by the application of equitable principles when equitable remedies are sought and except as rights to indemnity and contribution may be limited by applicable laws.

**FINANCIAL COVENANTS:**

The Borrower on a consolidated basis shall, at all times, maintain the following financial covenants:

- I. **Minimum Cumulative Net Deal Revenue:** the Borrower, on a consolidated basis, shall maintain minimum Cumulative Net Deal Revenue starting as of March 31, 2017, with the first measurement period being 1-Jan-2017 to 31-March-2017, as measured on the fifteenth day of each calendar month in respect of the immediately prior reporting period, in accordance with the following (provided that such covenant shall be breached only in accordance with Section 30(s)):

Start of Period	End of Period	Minimum Cumulative Net Deal Revenue
1-Jan-2017	31-Mar-2017	\$ 3,106,034
1-Jan-2017	30-Apr-2017	\$ 4,282,421
1-Jan-2017	31-May-2017	\$ 5,779,639
1-Jan-2017	30-Jun-2017	\$ 7,366,174
1-Jan-2017	31-Jul-2017	\$ 9,131,936
1-Jan-2017	31-Aug-2017	\$ 10,822,594
1-Jan-2017	30-Sep-2017	\$ 12,566,087
1-Jan-2017	31-Oct-2017	\$ 14,426,191
1-Jan-2017	30-Nov-2017	\$ 16,239,178

1-Jan-2017	31-Dec-2017	\$ 18,043,909
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“Net Deal Revenue” means all revenue relating to property deals closed in the applicable period by the Borrower, earned in such period, whether or not cash in respect of such revenue is received during such period.

“Cumulative Net Deal Revenue” means the sum of all Net Deal Revenue from Jan 1, 2017 to the last day of the reporting month (i.e., Cumulative Net Deal Revenue in April = sum of Net Deal Revenue in January, February, March and April).

2. **Minimum Cumulative Cash Revenue:** the Borrower, on a consolidated basis, shall maintain minimum Cumulative Cash Revenue starting as of February 28, 2017, with first measurement period being 1-Jan-2017 to 28-Feb-2017, as measured on the fifteenth day of each calendar month in respect of the immediately prior reporting period in accordance with the following:

Start of Period	End of Period	Minimum Amount
1-Jan-2017	28-Feb-2017	\$ 1,574,947
1-Jan-2017	31-Mar-2017	\$ 2,543,309
1-Jan-2017	30-Apr-2017	\$ 3,643,046
1-Jan-2017	31-May-2017	\$ 4,761,560
1-Jan-2017	30-Jun-2017	\$ 6,064,343
1-Jan-2017	31-Jul-2017	\$ 7,457,598
1-Jan-2017	31-Aug-2017	\$ 9,108,917
1-Jan-2017	30-Sep-2017	\$ 10,894,868
1-Jan-2017	31-Oct-2017	\$ 12,669,839
1-Jan-2017	30-Nov-2017	\$ 14,500,418
1-Jan-2017	31-Dec-2017	\$ 16,414,606

“Cash Revenue” means all cash received in the measurement month on account of ordinary course property deals closed in that measurement month or any prior months.

“Cumulative Cash Revenue” means the sum of all Cash Revenue from Jan 1, 2017 to the last day of the reporting month (i.e., Cumulative Cash Revenue in April = sum of Cash Revenue received in January, February, March and April).

3. **Minimum Cash Balance:** the Borrower, on a consolidated basis shall maintain minimum Cash Balance starting from Feb 1, 2017 as measured on the fifteenth day of each calendar month in respect of the immediately prior reporting period, in accordance with the following:

Start of Period	End of Period	Minimum Cash Balance
1-Feb-2017	28-Feb-2017	\$ 827,238
1-Mar-2017	31-Mar-2017	\$ 629,879

1-Apr-2017	30-Apr-2017	\$	533,065
1-May-2017	31-May-2017	\$	416,631
1-Jun-2017	30-Jun-2017	\$	394,222
1-Jul-2017	31-Jul-2017	\$	338,626
1-Aug-2017	31-Aug-2017	\$	366,584
1-Sep-2017	30-Sep-2017	\$	610,421
1-Oct-2017	31-Oct-2017	\$	700,000
1-Nov-2017	30-Nov-2017	\$	700,000
1-Dec-2017	31-Dec-2017	\$	700,000

“Cash Balance” means cash in bank accounts of the Borrower, in respect of which the Agent is aware and receives regular reporting. The Borrower and the Agent will agree on Financial Covenants for 2018 and onwards by 31-Oct-2017. In event of a failure to agree on Financial Covenants by 31-Oct-2017, the following covenants will apply for 2018 and 2019.

1. **Quarterly Net Deal Revenue Growth:** the Borrower shall maintain a minimum of 5% trailing 2 quarters Net Deal Revenue growth, calculated as:

$$2018Q4 \text{ measurement} = (2018Q3+2018Q4)/(2018Q3+2018Q2)-1$$

$$2018Q3 \text{ measurement} = (2018Q3+2018Q2)/(2018Q2+2018Q1)-1$$

$$2018Q2 \text{ measurement} = (2018Q2+2018Q1)/(2018Q1+2017Q4)-1$$

$$2018Q1 \text{ measurement} = (2018Q1+2017Q4)/(2017Q4+2017Q3)-1$$

2. **Quarterly Cash Revenue Growth:** the Borrower shall maintain a minimum of 5% trailing 2 quarters Cash Revenue growth, calculated as:

$$2018Q4 \text{ measurement} = (2018Q3+2018Q4)/(2018Q3+2018Q2)-1$$

$$2018Q3 \text{ measurement} = (2018Q3+2018Q2)/(2018Q2+2018Q1)-1$$

$$2018Q2 \text{ measurement} = (2018Q2+2018Q1)/(2018Q1+2017Q4)-1$$

$$2018Q1 \text{ measurement} = (2018Q1+2017Q4)/(2017Q4+2017Q3)-1$$

3. **Minimum Cash Balance:** the Borrower shall maintain minimum Cash Balance of \$500,000 at all times starting January 1, 2018.
4. **Minimum Net Receivable Book:** Total Net Receivable Book of the Borrower shall always be greater than \$5 million starting 1-Jan-2018.

“Net Receivable Book” means aggregate accounts receivables (including all new build and resale categories, excluding accounts that are unpaid for longer than 60 days) of the Borrower, less agents’ commission.

**PART "B"**  
**STANDARD TERMS AND CONDITIONS**

**AGREEMENTS:**

**20. Advances:**            Initial Advance

An initial advance (the "Initial Advance") shall be made by the Lenders to the Borrower within three (3) Business Days of the Conditions Precedent to Initial Advance set forth in Sections of this Agreement entitled "Conditions Precedent" and "Additional Conditions Precedent to Initial Advance" being satisfied in the sole and absolute discretion of the Agent, or waived in writing by the Agent. The Initial Advance shall be in an amount equal to the Initial Advance Amount minus the Interest Deposit. Notwithstanding any other term of this Agreement, in the event that the Initial Advance is not made prior to the Initial Advance End Date, the Agent and the Lenders may, at their sole and absolute discretion, terminate this Agreement without notice.

All amounts advanced shall collectively be referred to as the "Loan" with each such advance referred to as an "Advance". All obligations to repay the Loan, together with all other obligations of the Obligor or any of them to the Agent or the Lenders from time to time pursuant to or in connection with this Agreement or any Credit Documents (as hereinafter defined) are referred to hereinafter as the "Obligations".

**21. Interest Rate:**

The rate of interest per annum on the Loan outstanding will be equal to the Interest Rate and accrual of interest will commence on the Advance Date (as defined below), accruing daily and compounding monthly and calculated on the outstanding principal amount of the Loan outstanding from time to time, both before and after default. Interest on the outstanding Obligations shall be payable in cash by the Borrower to the Agent, on each monthly anniversary date of the Closing Date. In addition to interest payments, and subject to the obligation of the Borrower to pay to the Agent all outstanding Obligations on the Maturity Date, on the Principal Repayment Commencement Date, and each monthly anniversary of the Closing Date thereafter the Borrower shall be required to make additional repayments to the Agent of the outstanding principal amounts of the Loan in an amount equal to \$50,000 per month. The "Principal Repayment Commencement Date" means the first monthly anniversary of the Closing Date to occur after the later to occur of (i) the first anniversary of the Closing Date and (ii) the date where the aggregate accounts receivables of the Borrower (including all new build and resale categories, excluding accounts that are unpaid for longer than 60 days) are less than 200% multiplied by (the Maximum Amount plus \$1,500,000). Upon the occurrence of an Event of Default (as defined below), the Loan outstanding shall bear interest at a rate of 20.0% per

annum until the earlier of (i) the date that the said Event of Default is cured by the Borrower or (ii) the date that all Obligations, including all applicable accrued and unpaid interest, are indefeasibly repaid in full and the Lenders and Agent have no further obligations pursuant to the Credit Documents (the date on which all Obligations are indefeasibly repaid in full and the Agent and the Lenders have no further obligations pursuant to the Credit Documents is referred to as the "Termination Date").

**22. Maturity Date, Payments, and application thereof:**

Interest payments on the Loan shall be made in accordance with the section of this Agreement entitled "Interest". The outstanding principal amount of the Loan together with all outstanding Obligations, shall be due and payable on the Maturity Date. The time from the Closing Date to the Maturity Date is referred to as the "Term". All payments received by the Agent from the Borrower on account of the Obligations shall first be applied to satisfy the indemnity obligations of the Borrower to the Agent and the Lenders, second to fees payable to the Agent and the Lenders, third to interest obligations, fourth to repayment of principal of the Loan, or in each case as otherwise determined by the Agent in its sole and absolute discretion.

**23. Prepayments:**

The Borrower shall, prior to the Maturity Date, be permitted to repay all or any of the Obligations upon at least thirty (30) days' prior written notice to the Agent. Any repayment prior to the Maturity Date, on account of voluntary repayment by the Borrower or demand by the Agent during the continuance of an Event of Default, shall, in addition to the repayment of all outstanding Obligations, require payment to the Agent, on the date of such prepayment, of an amount equal to the Prepayment Fee.

**24. Security:**

**A. Security to be Delivered and Lien Priority**

A general security agreement (each a "GSA") from each Obligor providing for a first charge in favour of the Agent and the Lenders over all of such Obligor's personal property, assets and undertaking. Notwithstanding the previous sentence, the security interest of the Agent and the Lenders in respect of each Obligor will be subject to the Comerica Security Interest and may be subject to Customary Permitted Encumbrances. "Customary Permitted Encumbrances" means (i) purchase money security interest liens; and (ii) the liens and encumbrances set out in Schedule 24 hereto, provided that the Agent, and Lenders shall not be required to subordinate, postpone or otherwise compromise or limit their rights pursuant to the credit documents in any way on account of any document to which they are not, respectively, a party. Each Guarantor shall provide a guarantee of the Obligations of the Borrower in form and substance satisfactory to the Agent. The Customary Permitted Encumbrances and the Comerica Security Interest are hereinafter collectively referred to as the "Permitted

**Encumbrances".**

The GSAs, together with all security agreements, hypothecs and mortgages granted by any Obligor in favour of the Agent and the Lenders in connection with this Agreement from time to time, are sometimes collectively hereinafter referred to as the "Security" and the Security, together with the Key Man Insurance and any other documentation entered into between the Obligors and the Agent and the Lenders in connection with the Loan, are collectively referred to as the "Ancillary Credit Documents" and together with this Loan Agreement, collectively the "Credit Documents".

**25. Legal Fees and Expenses:**

All legal fees and other out of pocket expenses reasonably incurred by the Agent or the Lenders from time to time pursuant to or in respect of this Agreement and the other Credit Documents shall be promptly paid by the Borrower to the Agent and the Borrower hereby irrevocably authorizes the Agent and the Lenders to deduct any such fees from any Advance, at the Agent's discretion, acting reasonably. For greater certainty, any fees or expenses outstanding at any time shall form part of the Obligations secured by the Security. Notwithstanding the foregoing, the legal fees and other out of pocket expenses incurred by the Agent or the Lenders prior to the Closing Date shall not exceed \$35,000.

**26. Underwriting Fee:**

The Underwriting Fee is non-refundable and shall be fully earned by the Agent and the Lenders on the date of this Agreement, and shall be payable by the Borrower to the Agent on the earlier to occur of (i) the date of the first Advance (in which case it shall be deducted from the first Advance) or (ii) the termination of this Agreement, in which case the Underwriting Fee shall be due and payable on the date of termination, and such obligation shall survive termination until paid in full. The Agent acknowledges that the Borrower has provided a non-refundable deposit of \$25,000 to the Agent and on the Closing Date such deposit shall first be applied to any of the expenses referred to in this paragraph, with any funds remaining thereafter being immediately applied by the Agent to fees and other obligations of the Borrower.

**27. Other Provisions:**

- (a) 100% of the net proceeds of any voluntary or involuntary disposition of assets of any Obligor (including, without limitation, payments received by such Obligor representing insurance and expropriation proceeds) shall (A) within 180 days of such asset disposition be used by such Obligor to purchase assets substantially similar to and in replacement of those assets sold or (B) in respect of any amounts not so used, shall, within 190 days of such disposition, be used to repay, or as the case may be, prepay, the Obligations.
- (b) 100% of the proceeds (net of reasonable transaction costs) of any issuance of debt by any Obligor that is permitted by the Agent in



accordance with the terms of this Agreement shall immediately be used to repay outstanding Obligations.

- (c) The Security shall at all times have the priority contemplated under the heading of "Security" above.

**28. Conditions  
Precedent to  
Advances:**

**A. Conditions Precedent to Initial Advance**

- (a) Execution and delivery by the Obligors of this Agreement and the other Credit Documents, all as contemplated herein;
- (b) The Agent shall have received a legal opinion from counsel for the Obligors in form and substance satisfactory to the Agent and its counsel acting reasonably;
- (c) The executed and delivered Ancillary Credit Documents shall be in form and substance satisfactory to the Agent and its counsel acting reasonably;
- (d) All Security shall be perfected to the satisfaction of the Agent;
- (e) Receipt by the Obligors of all required corporate and third party consents, waivers and approvals required by the Obligors to enter into this Agreement and the other Credit Documents;
- (f) There has not occurred any material adverse change, financial or otherwise, in the assets, liabilities (contingent or otherwise), business, financial conditions, capital or prospects of the Obligors;
- (g) The Agent shall be satisfied, in its sole discretion, with its diligence review with respect to the business, assets, financial condition, affairs and prospects of the Obligors;
- (h) Receipt by the Agent of a compliance certificate, certifying compliance by the Obligors with, among other things, all covenants set out in this Agreement and all applicable financial covenants, in form and substance satisfactory to the Agent (a "**Compliance Certificate**");
- (i) The Borrower shall have established pre-authorized debit arrangements in favour of the Agent, satisfactory to the Agent in its sole and absolute discretion; and
- (j) All Additional Conditions Precedent to Initial Advance have been satisfied.

In association with a request for the Initial Advance (if the Initial Advance is not made contemporaneously with the entering into of this Agreement), and prior to making of such Advance, the Borrower shall deliver to the Agent:

- (A) an officer's certificate confirming that:
  - a. no Event of Default exists and is continuing pursuant to this Agreement, or would result as a consequence of the requested Advance;
  - b. all representations and warranties in this Agreement remain true, correct and complete as of the date of the requested Advance;
- (B) an agreement from the Borrower and any other Obligors, as the case may be, that the Security shall continue to apply to this Agreement after such Advance, including those obligations created pursuant to the requested Advance; and
- (C) a Compliance Certificate.

**29. Representations  
and  
Warranties:**

Each of the Obligors represents and warrants as follows to the Agent and acknowledges and confirms that the Agent and the Lenders are relying upon such representations and warranties in granting the Loan and making any Advances hereunder. At the drawdown of each Advance to the Borrower, each Obligor shall be deemed to make the following representations and warranties as at the date of such Advance and all such representations and warranties shall, notwithstanding any investigation made by the Agent or any Lender or its counsel or the making of any Advances hereunder, survive the execution, delivery and registration of the Security and this Agreement and shall not merge with each such Advance of the Loan but shall continue in full force and effect until the Termination Date.

- (a) Each Obligor is a corporation duly incorporated and organized and is a valid and subsisting corporation under the laws of its jurisdiction of incorporation, with the corporate power and capacity to own or lease its property and assets and carry on its business.
- (b) The address of the chief executive office of each Obligor is the same as the address of such Obligor provided on the signature page of this Agreement.
- (c) As of the date of the Initial Advance, during the prior five (5) years, the Obligors have not had any legal names other than their current names.

- (d) Each of the Obligor has all necessary corporate power and authority to enter into this Agreement and the other Credit Documents to which it is a party, and to do all such acts and things as are required hereunder and thereunder to be done, observed or performed, in accordance with their respective terms.
- (e) Each Obligor has received all necessary consents and authorizations required under any shareholder agreement relating to such Obligor, to the extent such agreements exist.
- (f) This Agreement constitutes and, when executed and delivered, the other Credit Documents will constitute, valid and legally binding obligations of each Obligor party thereto enforceable against such Obligor in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction. Neither the borrowing of money by an Obligor, the guaranteeing of obligations of an Obligor, the execution and delivery by an Obligor of this Agreement or of any other Credit Document or any other agreement additional or collateral thereto or hereto and the issue of the security to be issued thereunder, nor compliance with the terms and conditions hereof or thereof:
  - (i) will result in a violation of any applicable law, rule, regulation, order, judgment, injunction, award or decree to which such Obligor may be subject;
  - (ii) will result in a breach of any of the covenants under, or constitute, with or without the giving of notice or lapse of time or both, a default under, any loan agreement, indenture, trust deed or any other agreement or instrument to which any Obligor is a party or by which it is bound, including without limitation any loan or security arrangements in effect from time to time with any financial institution or other lender;
  - (iii) will result in a breach or violation of or constitute a default under the articles of incorporation, by-laws or other constating documents of any Obligor; or
  - (iv) requires the consent or approval of any other person, firm or corporation, or if required, such consents' will have been obtained.
- (g) Subject to the Permitted Encumbrances and the permitted Indebtedness referred to in Section 30(c) of this Agreement, each

Obligor has, and when it executes and delivers the Security will have, good and unencumbered title to the assets and property described therein and included in the Security, free and clear of all assignments, liens, charges and encumbrances whatsoever.

- (h) Except as disclosed to the Agent in writing, there are no actions, suits, investigations, assessments or re-assessments, arbitration or other proceedings pending or, to the knowledge of any Obligor or any of such Obligor's directors and officers threatened against or affecting such Obligor or its undertakings, properties or assets, at law, in equity or before any court, tribunal or other competent governmental agency or authority, domestic or foreign, and there is not presently outstanding against any Obligor any judgment, execution, taxing assessment or re-assessment, decree, injunction, rule, order or award of any court, governmental department, administrator or administrative agency, domestic or foreign.
- (i) No Obligor has made any assignment for the benefit of creditors nor has any receiving order been made against any Obligor under the provisions of the *Bankruptcy and Insolvency Act*, nor has any petition for such an order been served upon it nor are there any proceedings in effect under the provisions of the *Winding-Up and Restructuring Act* or the *Companies' Creditors Arrangement Act*.
- (j) Except as listed in Disclosure Schedule 29(j) to this Agreement, each Obligor is in compliance with all applicable laws to which it or its assets or properties are subject, including all applicable environmental laws, and there is no claim, action, prosecution or other proceedings of any kind pending or threatened against any Obligor or any of its assets or properties before any court or administrative agency which related to any non-compliance with any environmental law which, if adversely determined, might have a material adverse effect upon such Obligor's financial condition or operations or its ability to perform its obligations under this Agreement or any of the Security, and there are no circumstances of which any Obligor is aware which might give rise to any such proceedings which has not been fully disclosed to the Agent. Any and all representations and warranties made by the Obligors pursuant to any Credit Documents are true, accurate and correct in all material respects, and any and all other applications, books, records, financial statements or other documents delivered to the Agent or any Lender by or on behalf of the Obligors prior to the date hereof, in connection with the Agent's or any Lender's due diligence review or otherwise do not contain any material misrepresentation as to the matters set out therein.

**30. Covenants:** Each of the Obligors covenants and agrees that, except with the prior

written consent of the Agent, at all times while this Agreement is in force:

- (a) each of the Obligors shall pay all sums when due by it as required by this Agreement and the other Credit Documents;
- (b) the proceeds of the Loan will only be used for the purpose set out in the Section of this Agreement entitled "Purpose", and for no other purpose;
- (c) the Obligors shall not incur any Indebtedness, except (i) Indebtedness pursuant to the Obligations, (ii) Indebtedness secured by a purchase money security interest lien, (iii) Indebtedness pursuant to any other credit cards issued now or in the future to the Borrower up to the principal amount of \$100,000, (iv) Indebtedness related to the Comerica Security Interest or (v) such other Indebtedness that the Agent approves in writing from time to time, in its sole and absolute discretion;
- (d) the Obligors shall not make any payment or distribution in respect of any Indebtedness or on account of the purchase, redemption, defeasance or other retirement of an Obligor's shares or any other payment, voluntary prepayment or distribution made in respect thereof, either directly or indirectly, other than (i) payments arising under this Agreement; (ii) payments that are subject to a subordination, priority or intercreditor agreement on terms satisfactory to the Agent, and only in accordance with the terms of such subordination, priority or intercreditor agreement, provided for greater certainty and notwithstanding the terms of any Credit Document to the contrary, if any payment due and payable by any Obligor to the Agent or any Lender is not made in full as it is prohibited from being made pursuant to the terms of any agreement between any Obligor and another lender to an Obligor (including any intercreditor, subordination, postponement, priorities or like agreement, irrespective of whether the Agent or any Lender is a party thereto) or if such agreement requires that any such payment be held in trust for or given over to such other lender, such failure of a Lender or the Agent to receive, have the right to receive or have such payment for its own account shall be an Event of Default; and (iii) payments to other Obligors;

- (e) none of the Obligor shall enter into any lending or borrowing transaction with any of its shareholders, employers, directors, affiliates or subsidiaries (including upstreaming and downstreaming of cash and intercompany advances and payments by an Obligor on behalf of an affiliate or subsidiary), other than with another Obligor;
- (f) none of the Obligor shall enter into any commercial transaction with any of its shareholders, employers, directors, affiliates or subsidiaries outside the ordinary course of business. Notwithstanding the foregoing, the Agent and the Lenders agree and consent to the Management Services Agreement between Trilogy Growth Inc. and TheRedPin Inc., dated April 1, 2015 and any amendments or replacements thereof, provided that the obligations of any Obligor in respect of such agreements and amendments thereto shall not at any time exceed \$16,666.67 per month;
- (g) the Obligor shall not, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any affiliate of such Obligor (other than another Obligor), unless such transaction is on terms that are not less favourable to such Obligor as it would obtain in a comparable arm's length transaction with a person that is not an affiliate;
- (h) the Obligor shall not, without the prior written consent of the Agent, grant, create, assume or suffer to exist any lien, mortgage or other encumbrance affecting any of their properties or assets, other than the Permitted Encumbrances;
- (i) the Obligor will not call for redemption or purchase for cancellation or make any dividend or distribution of cash or other property or assets on or in respect of any equity interests of such Obligor (including, without limitation, common shares or preferred shares in such Obligor) (other than with another Obligor), without the prior written consent of the Agent;
- (j) the Obligor will maintain in full force and effect such policies of insurance, including public liability and property damage insurance, in such amounts issued by insurers of recognized standing covering their properties and operations as are customarily maintained by persons engaged in the same or similar business in the localities where its properties and operations are located and the Agent shall be listed as first loss payee in respect of such policies;
- (k) the Obligor shall maintain their corporate existence and will carry on and conduct their business in a proper, efficient and businesslike

manner and in accordance with good business practice;

- (l) the Obligors shall continue to carry on business in the nature of the business transacted by them prior to the date hereof, and shall not carry on any other business unrelated to real estate;
- (m) none of the Obligors shall sell, assign, license or otherwise encumber or impair any of its intellectual property or intangible assets, without the express prior written consent of the Agent except that the Obligors may enter into intellectual property licenses with bona fide third parties in the ordinary course of the Obligor's business;
- (n) none of the Obligors shall change its name, merge, amalgamate or otherwise enter into any other form of business combination with any other entity without the prior written consent of the Agent. Each Obligor shall promptly notify the Agent upon obtaining knowledge that one or more legal proceedings has been commenced against it, or is likely to be commenced against it, in an aggregate amount exceeding \$50,000 at any time;
- (o) the Obligors will maintain any license or permit required by such Obligors to conduct their business and no such license or permit shall be restricted in a manner that would be materially adverse to the Borrower's business or financial position;
- (p) each Obligor shall file all tax returns which it must file from time to time, and pay or make provision for payment of all taxes (including interest and penalties) and other potential preferred claims which are or will become due and payable and to provide adequate reserves for the payment of any taxes, the payment of which is being contested;
- (q) the Obligors shall fully and effectually maintain and keep maintained the Security as valid and effective and having the priority contemplated under the heading of "Security" above at all times while any Obligations remain outstanding;
- (r) the Borrower shall promptly give notice to the Agent upon TheRedPin Brokerage, Alberta Inc. owning property with a value greater than \$50,000 or having any employees or carrying on any business, and shall cause TheRedPin Brokerage, Alberta Inc. to promptly enter into any security agreement, joinder agreement to this Agreement (whereby TheRedPin Brokerage, Alberta Inc. becomes an Obligor pursuant to this Agreement) or any other document requested by the Agent;
- (s) the Obligors shall at all times achieve financial results which satisfy the Financial Covenants, provided that failure to achieve the

Minimum Cumulative Net Deal Revenue shall not be an Event of Default until such failure has continued for at least two consecutive monthly reporting periods;

- (t) the Obligors shall make available to the Agent all books and records relating to the financial, business and corporate affairs thereof, as the case may be, for inspection by the Agent upon the Agent's reasonable request from time to time;
- (u) no Obligor shall make any Investment except an Investment in another Obligor;
- (v) the Borrower shall ensure that at all times that the only voting shares of the Borrower shall be the common shares of the Borrower, in the same class as the Lenders would be issued in the event that they exercised any Warrant;
- (w) the Agent shall have reasonable access to the management of the Obligors upon the Agent's reasonable request from time to time; and
- (x) the Obligors will immediately notify the Agent in writing, and in reasonable detail, of the occurrence of any event which constitutes or, which, with notice, lapse of time, or both, would constitute, an Event of Default under this Agreement.

For the purposes of this Agreement, the following terms have the following meanings: (i) "affiliate" means, with respect to a person, any other person (including without limitation any entity, individual, corporation, company, partnership, limited liability company, or trust) that directly or indirectly through one or more intermediaries or contractual relationships, controls, is controlled by or is under common control with such person; (ii) "control", "controls" and "controlled" means, the power to direct, manage, and/or supervise the affairs, business or assets of a person or entity; (iii) "Indebtedness" means debt for borrowed money and all guarantees of a person with respect to the debt for borrowed money of others; (iv) "Investment" means any advance, loan, extension of credit or capital contribution to, purchase of shares, bonds, notes, debentures or other securities of, or any other investment made in, any person; and (v) "subsidiary" has the meaning ascribed thereto in the *Business Corporations Act* (Ontario).



**31. Reporting  
Covenants:**

The Borrower shall deliver to the Agent, in a form and substance satisfactory to the Agent, each of the following, in each case signed by a senior officer of the Borrower:

- i. annually, no later than 30 days prior to the end of the financial year of the Borrower, a board approved business plan containing financial and business projections for the following financial year;
- ii. annually, within 120 days after the financial year end of the Borrower in respect of the preceding financial year, audited financial statements for the Borrower prepared without qualification by a nationally recognized accounting firm or such other independent accounting firm acceptable to the Agent;
- iii. annually, within 180 days after the financial year end of the Borrower in respect of the preceding financial year or otherwise at the reasonable request of the Agent from time to time, a certificate certifying corporate tax compliance of each Obligor;
- iv. quarterly, within 15 days after the end of each fiscal quarter or otherwise at the reasonable request of the Agent from time to time, a Compliance Certificate;
- v. monthly, within 15 days after the end of each month, bank statements for all bank accounts of the Obligors;
- vi. monthly, within 30 days after the end of each month, financial statements for the preceding month and year to date containing, amongst other information, short term liabilities (on and off balance sheet), aged short term liabilities (including aged payables), income statement and aged accounts receivable; and

such other information and documentation as the Agent may request from time to time, acting reasonably.

The Borrower shall upload all financial reporting to the software platform designated by the Agent from time to time, in accordance with the protocols designated by the Agent from time to time. The Agent agrees to use reasonable commercial efforts to ensure that the software platform is secure, confidential and that no one other than the Agent and the Lenders will have access to any information uploaded by the Borrower to such software platform.

**32. Events of  
Default:**

Any one or more of the following events, which have not been cured within 15 calendar days of such event occurring, (provided that no cure period shall apply (A) in the event that the Borrower fails to promptly provide notice of such Event of Default to the Agent, (B) if such event

cannot be cured, or (C) such event, in the judgement of the Agent, is reasonably unlikely of being cured within 15 days) will constitute an Event of Default hereunder:

- (a) if an Obligor fails to pay when due and payable any outstanding amount owing to the Agent or any Lender under this Agreement or the other Credit Documents;
- (b) if an Obligor fails to observe, or perform in any material respect, any obligation, covenant or term contained in this Agreement or any other agreement between such Obligor and the Agent or any Lender;
- (c) an Obligor changes its name or chief executive office location without giving the Agent a minimum of thirty (30) days' prior written notice;
- (d) if any representation or warranty made by any Obligor herein or in the Security or in any other agreement between such Obligor and the Agent or any Lender in any certificate delivered by or on behalf of such Obligor to the Agent or any Lender (including in any Information Certificate) shall prove to have been false or misleading in any material respect;
- (e) the bankruptcy or insolvency of an Obligor; the filing against an Obligor of a petition in bankruptcy; the making of an assignment for the benefit of creditors by an Obligor; the making of a proposal under the *Bankruptcy and Insolvency Act* (Canada) by an Obligor or if an Obligor seeks relief under the *Companies' Creditors Arrangement Act* (Canada) or any similar law; the appointment of a receiver or a receiver and manager or trustee for an Obligor or for any material asset or property of an Obligor or the institution by or against an Obligor of any other type of insolvency proceeding under the *Bankruptcy and Insolvency Act* (Canada). Notwithstanding the foregoing, in the case of proceedings commenced involuntarily against an Obligor, it shall not be an Event of Default until either (i) 60 days have elapsed without such proceeding being dismissed, or (ii) the remedy sought in such proceeding is granted by a court of competent jurisdiction;
- (f) the institution by or against an Obligor of any formal or informal proceeding for the dissolution or liquidation of, settlement of claims against or winding up of the affairs of an Obligor;
- (g) if an encumbrancer takes possession of any material asset or property of an Obligor, or if any execution, sequestration or other process of any court becomes enforceable against any material asset or property of an Obligor, or if a distress or like process is levied

against any material asset or property of an Obligor;

- (h) (A) if an Obligor breaches a contract that is material to its business or (B) the occurrence of an acceleration of any debt of an Obligor, where the principal amount of such debt exceeds 5% of the Maximum Amount;
- (i) if an Obligor ceases or threatens to cease to carry on its business or makes or agrees to make a bulk sale of its assets without complying with applicable law or commits or threatens to commit any act of bankruptcy;
- (j) if an Obligor commits an event of default or any breach, failure, event, or condition which, unless remedied or waived, with the lapse of time, giving of notice, making of a determination, or any combination thereof, would constitute an event of default under any agreement between such Obligor and any lender; provided that, if there is any cure period applicable to such default, such cure period lapses without the default being cured;
- (k) any provision of this Agreement or the other Credit Documents shall for any reason cease to be valid, binding and enforceable in accordance with its terms, or any lien granted, or intended by this Agreement or the Security documents shall cease to be a valid and perfected lien having the priority contemplated under the heading of "Security" above in any property of an Obligor charged, or intended to be charged, thereby;
- (l) any of the Obligors' insurance policies is cancelled or adversely changed or the insurer threatens to cancel or adversely change such insurance policy;
- (m) any change of control of an Obligor without the Agent's prior written consent. Notwithstanding the foregoing, the following circumstances will not be considered to constitute a change of control for the purposes of this subsection (a) a bonafide equity financing of any Obligor, where the net proceeds to all Obligors exceeds \$10,000,000 and that results in a change of control, and (b) a change of control where the resulting controlling party is Trilogy Growth Fund LP will not be considered an Event of Default under this Agreement,;
- (n) the Borrower has failed, within sixty (60) days of the Closing Date, to amend the shareholders' agreement of the Borrower so as to remove all non-competition covenants that would be applicable to the Lender upon the Lender becoming a shareholder of Borrower, including without limitation, those covenants set out in Section 9 of such shareholders' agreement;

- (o) the Borrower has failed, within sixty (60) days of the Closing Date, to obtain key man life insurance on the life of Tarik Gidamy, showing the Lender as the beneficiary thereunder, with such insurance and any arrangements permitting the Lender to be the primary beneficiary thereunder being in form and substance satisfactory to the Lender;
- (p) any sale of all or substantially all of the assets of an Obligor without the Agent's prior written consent; or
- (q) any material adverse change in the business, affairs and/or operations of any Obligor.

**33. Acceleration:** Upon the occurrence of any Event of Default, the Agent, in its sole discretion, may take any or all of the following actions:

- (a) declare the Obligations to be immediately due and payable without presentment, demand or other notice of any kind, all of which are hereby expressly waived to the extent permitted by law;
- (b) realize upon the Security as provided for herein or otherwise; and
- (c) proceed by any other action, suit, remedy or proceeding authorized or permitted by this Agreement, the Security, the other Credit Documents, or by law or by equity.

**34. Governing Law:** This Agreement and all documents delivered pursuant thereto shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

**35. Time of the Essence:** Time shall in all respect be of the essence of this Agreement, and no extension or variation of this agreement or of any obligation hereunder shall operate as a waiver of this provision.

**36. Complete Agreement:** This Agreement and the other Credit Documents constitute the complete agreement between the parties with respect to the subject matter hereof and thereof, supersede all prior agreements, commitments, understandings or inducements (oral or written, expressed or implied). No Credit Document may be modified, altered or amended except by a written agreement signed by the Agent, the Lenders, the Borrower and each Obligor that is a party to such Credit Document. The Borrower and each other Obligor executing this Agreement or any other Credit Document shall have all duties and obligations under this Agreement and such other Credit Documents from the date of its execution and delivery, regardless of whether the Initial Advance has been funded at that time.

**37. Notices:** All notices and other communications provided for herein shall be in writing and shall be personally delivered to the Agent, the Obligors, or an officer or a responsible employee of such Obligor, as the case may be, or

sent by facsimile or other direct electronic means, charges prepaid, at or to the Agent at the address of the Agent provided on the signature pages to this Agreement, or at or to the Obligors at the address or facsimile number, as the case may be, set out on the signature pages hereto or to such other address or addresses or facsimile number or numbers as either party hereto may from time to time designate to the other party in such manner.

**38. Severability:** Any provision hereof which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

**39. Successors and Assigns:** This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective participants, successors and assigns. Neither this Agreement nor any interest in this Agreement may be assigned by any Obligor without the prior written consent of the Agent. The Agent or any Lender may assign or transfer, or grant any participation in its rights and obligations under this Agreement, in whole or in part at any time without notice to or consent of any Obligor, provided that the such Lender or Agent, as the case may be, shall continue to be bound by the liabilities and obligations agreed by it herein relating to the period prior to such assignment. The Agent and any Lender may disclose to potential or actual transferees or assignees or participants any information regarding the Obligors as the Agent and the Lenders, or any one of them, considers necessary (provided that the Agent or applicable Lender obtains a non-disclosure covenant of such assignees or participants on typical commercial terms), and the Obligors hereby consent to such disclosure. The Agent or any Lender may use the name of the Borrower and any other Obligor for any marketing purpose.

**40. Indemnity:** The Obligors agree, jointly and severally, to indemnify and hold harmless the Agent and each Lender, any participant and its affiliates and their respective employees, officers, directors, professional advisors and agents (each, an "Indemnified Person") from and against any and all suits, actions, proceedings, claims, damages, losses, liabilities and expenses of any kind or nature whatsoever (including legal fees and disbursements and other costs of investigation or defence reasonably incurred, including those incurred upon any appeal) which may be instituted or asserted against or incurred by any such Indemnified Person as the result of credit having been extended, suspended or terminated under this Agreement and the other Credit Documents or with respect to the execution, delivery, enforcement, performance or administration of, or in any other way arising out of or relating to, this Agreement and the other Credit Documents or any other documents or transactions contemplated by or referred to herein or therein and any actions or failures to act with respect to any of the foregoing, including any and all product liabilities, environmental liabilities, taxes and legal costs and

expenses reasonably incurred arising out of or incurred in connection with any dispute between or among any parties to this Agreement or any of the other Credit Documents (collectively, "Indemnified Liabilities"), except any such Indemnified Liability that is finally determined by a court of competent jurisdiction to have resulted solely from such Indemnified Person's gross negligence or wilful misconduct. This Section entitled "Indemnity" shall survive Termination of this Agreement.

**41. Taxes, etc.:**

All payments made by any Obligor under this Agreement or any other Credit Document to the Agent or any Lender (that is [resident] in Canada) shall be made free and clear of, and without deduction for or on account of, any present or future taxes, levies, assessments, deductions, withholdings or other governmental charges of any nature whatsoever now or hereafter imposed by any official body in any jurisdiction ("Taxes"). If any Taxes are required to be withheld or deducted from any amounts payable by any Obligor to the Lender hereunder, such Obligor shall:

- (a) within the time period for payment permitted by applicable law pay to the appropriate governmental body the full amount of such Taxes and any additional taxes, levies, assessments, deductions, withholdings or other governmental charges in respect of the payment required to be made and make such reports and filings in connection therewith in the manner required by applicable law; and
- (b) pay to the Agent or applicable Lender, an additional amount which (after deduction of all Taxes incurred by reason of the payment or receipt of such additional amount) will be sufficient to yield to the Agent, or applicable Lender the full amount which would have been received by it had no deduction or withholding been made.

Upon the request of the Agent, the applicable Obligor shall furnish to the Agent the original or a certified copy of a receipt for (or other satisfactory evidence as to) the payment of each of the Taxes (if any) payable in respect of such payment.

**42. Counterparts:**

This Agreement may be signed and delivered in counterparts, by facsimile, .PDF attached to an email or other electronic means, and all such signed counterparts will together constitute one and the same agreement.

*[Remainder of Page Intentionally Blank; Signature Page Follows]*

The parties have executed this Agreement as of the Closing Date.

**FIREPOWER DEBT GP INC., as agent**

Per: \_\_\_\_\_  
Name: JARED KALISH  
Title: Authorized Signing Officer

Per: \_\_\_\_\_  
Name: ILAN JACOBSON  
Title: Authorized Signing Officer

**FIREPOWER GAP DEBT LP, by its general partner  
FIREPOWER DEBT GP INC.**

Per: \_\_\_\_\_  
Name: JARED KALISH  
Title: Authorized Signing Officer

Per: \_\_\_\_\_  
Name: ILAN JACOBSON  
Title: Authorized Signing Officer

**FIREPOWER ASSET MANAGEMENT INC.**

Per: \_\_\_\_\_  
Name: JARED KALISH  
Title: Authorized Signing Officer

Per: \_\_\_\_\_  
Name: ILAN JACOBSON  
Title: Authorized Signing Officer

Address for notice for the Agent and the Lenders

3 Church Street, Suite 601  
Toronto, ON M5E 1M2  
Attention: Ilan Jacobson and Jared Kalish  
E-mail: [ijacobson@firepowercapital.com](mailto:ijacobson@firepowercapital.com);  
[jkalish@firepowercapital.com](mailto:jkalish@firepowercapital.com)

**THEREDPIN, INC.**

Per: \_\_\_\_\_

Name: Tarik Gidamy

Title: Chief Sales Officer

**THEREDPIN.COM REALTY INC.**

Per: \_\_\_\_\_

Name: Tarik Gidamy

Title: Chief Sales Officer

**THEREDPIN MORTGAGE BROKERAGE INC.**

Per: \_\_\_\_\_

Name: Tarik Gidamy

Title: Chief Sales Officer



**THEREDPIN BROKERAGE, BC INC.**

Per: \_\_\_\_\_

Name: Tarik Gidamy

Title: Vice President Sales

Address of chief executive office (and address for notice) for all  
Obligors:

5 Church Street, Toronto,  
ON  
M5E 1M2

Facsimile No.: \_\_\_\_\_

Attention: Tarik Gidamy

[Signature page to Loan Agreement]

**PART "C"**  
**STANDARD DEFINED TERMS**

**DEFINED TERMS:**

For purposes of this Agreement, the following terms have the meaning specified below:

"**Agent**" means FIREPOWER DEBT GP INC., acting as agent for itself and the Lenders. For greater certainty, the Agent is appointed by the Lenders, and may be replaced by the Lenders at any time without consent from any Obligor.

"**GAAP**" means, at any time, accounting principles generally accepted in Canada as recommended in the Handbook of the Canadian Institute of Chartered Accountants at the relevant time applied on a consistent basis.

"**Guarantors**" means the Initial Guarantors and all entities that after the date hereof become direct or indirect subsidiaries of the Borrower or any Guarantor (as hereinafter defined) or in respect of which the Borrower or any Guarantor owns 50% or more of the equity interests, partnership interests or voting rights other than, subject to the section of this Agreement entitled "Covenants", TheRedPin Brokerage Alberta, Inc.

"**Lenders**" means, collectively, FirePower Asset Management Inc. ("**Other Lender**") and FirePower Gap Debt LP ("**Firepower**").

"**Obligors**" means, collectively, the Guarantors and the Borrower.

"**Warrants**" means the warrants to purchase Warrant Shares issued by the Warrant Issuer to the Lenders in accordance with the terms of this Agreement.

## SCHEDULE 24

### Additional Customary Permitted Encumbrances

For the purposes of this Schedule "Liens" means any mortgage, charge, assignment, pledge, trust, hypothecation, lien (statutory or otherwise), security interest or other encumbrance of any nature however arising, or any other security agreement, trust or arrangement (i) creating in favour of any creditor a right in respect of any particular property that is prior to the right of any other creditor in respect of such property, or (ii) that in substance secures payment or performance of an obligation.

Customary Permitted Encumbrances also includes:

- (a) Liens for taxes, rates, assessments or other governmental charges or levies the payment of which is not yet due, or for which instalments have been paid based on reasonable estimates pending final assessments, or if due, the validity of which is being contested diligently and in good faith by appropriate proceedings by that person and in respect of which it has made arrangements for payment satisfactory to the Agent acting reasonably;
- (b) undetermined or inchoate Liens of contractors, subcontractors, mechanics, workers, suppliers, materialmen, carriers and others in respect of construction, maintenance, repair or operation of the assets of such person, rights of distress and charges incidental to current operations, in each case, which have not at such time been filed or exercised and of which none of the Lenders or the Agent has been given notice, or which relate to obligations not due or payable or if due, the validity of which is being contested diligently and in good faith by appropriate proceedings by that Person and in respect of which there has been set aside a reserve (segregated to the extent required by GAAP) in adequate amount;
- (c) the right reserved to or vested in any governmental authority by the terms of any lease, license, franchise, grant or permit acquired by that person or by any statutory provision to terminate any such lease, license, franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof;
- (d) the Liens resulting from the deposit of cash or securities in connection with contracts, tenders or expropriation proceedings, or to secure workers' compensation, unemployment insurance, surety or appeal bonds, costs of litigation when required by law;
- (e) Liens given to a public utility or any governmental authority when required by such utility or governmental authority in connection with the operations of that person in the ordinary course of its business;
- (f) any Liens expressly consented to in writing by the Agent;

## DISCLOSURE SCHEDULE 29 (j)

1. Small Claims Court claim against TheRedPin Mortgage Brokerage Inc. ("TRP MB") in the amount of \$19,198.04 (plus pre and post judgment interest). The allegation is that an Agent of TRP MB failed to comply with RECO rules in the course of acting for a prospective tenant on a rental property. The Corporation appears to be added to the claim as principal of that Agent

**TAB B**

## GENERAL SECURITY AGREEMENT

This Agreement is made the 15th day of February, 2017.

**Between:**

**THEREDPIN.COM REALTY INC.**, a corporation existing pursuant to the laws of Canada

(the "Guarantor")

- and -

**FIREPOWER DEBT GP INC.**, as agent for the Lenders (as hereinafter defined).

(the "Agent")

**Whereas:**

- (a) The Agent and the lenders that may from time to time be parties to the Loan Agreement (as hereinafter defined) as lenders (collectively the "Lenders") have agreed to make certain credit facilities available to TheRedPin, Inc. (the "Borrower") upon the terms and conditions contained in a loan agreement among the Borrower, the Agent and the Lenders dated as of this date (such loan agreement as it may at any time or from time to time, be amended, supplemented, restated or replaced, the "Loan Agreement");
- (b) the Agent is to hold for its own benefit and is to act as agent under the Loan Agreement, *inter alia*, to hold as agent for the rateable benefit of the Lenders, any and all security for the payment and performance of the obligations of the Borrower under the Loan Agreement, and the other Credit Documents (as defined in the Loan Agreement) to which it is a party;
- (c) pursuant to a guarantee agreement dated as of this date (such guarantee agreement as it may at any time or from time to time, be amended, supplemented, restated or replaced, the "Guarantee"), the Guarantor has agreed to unconditionally guarantee to the Agent and its successors and assigns the complete payment and performance of all indebtedness, liabilities and obligations of the Borrower to the Agent and the Lenders from time to time;

- (d) the Guarantor has agreed to execute and deliver this Agreement to and in favour of the Agent as security for the payment and performance of the Guarantor's obligations to the Lenders and the Agent under, without limitation, the Guarantee, and the other Credit Documents relating thereto to which the Borrower is a party; and
- (e) capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Loan Agreement.

Now therefore for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Guarantor agrees with the Agent, as follows:

**1. Obligations Secured.** The Security Interest (as hereinafter defined) is granted to the Agent, for its own benefit and for the benefit of the Lenders, by the Guarantor as continuing security for the payment and performance of all debts, liabilities and obligations, present or future, direct or indirect, absolute or contingent, matured or unmatured, at any time or from time to time due or accruing due, and owing by or otherwise payable by the Guarantor to the Agent and the Lenders from time to time, pursuant to the Guarantee and the Credit Documents, however or wherever incurred, and in any currency, and whether incurred by the Guarantor alone or with another or others and whether as principal, guarantor or surety (collectively, and together with the expenses, costs and charges set out in Section 32, the "Obligations").

**2. Creation of Security Interest.** As general and continuing security for the payment and performance when due of all the Obligations, the Guarantor hereby mortgages, pledges, hypothecates, transfers, assigns and charges to the Agent, as agent for the benefit of itself and the Lenders and hereby grants to the Agent as agent for the benefit of itself and the Lenders a security interest in (such mortgages, pledges, hypothecations, transfers, assignments, charges and security interests are referred to collectively as the "Security Interest") all present and after-acquired undertaking and property of the Guarantor of any nature whatsoever (such undertaking and property are referred to collectively as the "Collateral") including, without limitation, the following Collateral:

- (a) *Equipment* - all present and future equipment of the Guarantor, including all machinery, fixtures, plant, tools, furniture, vehicles of any kind or description, all spare parts, accessories installed in or affixed or attached to any of the foregoing, and all drawings, specifications, plans and manuals relating thereto ("Equipment");
- (b) *Inventory* - all present and future inventory of the Guarantor, including all raw materials, materials used or consumed in the business of the Borrower, work-in-progress, finished goods, goods used for packing, materials used in the business of the Guarantor not intended for sale, and goods acquired or held for sale or furnished or to be furnished under contracts of rental or service ("Inventory");
- (c) *Accounts* - all present and future debts, demands and amounts due or accruing due to the Borrower whether or not earned by performance, including without limitation its book debts, accounts receivable, and claims under policies of

insurance, and all contracts, security interests and other rights and benefits in respect thereof ("Accounts");

- (d) *Intangibles* - all present and future intangible personal property of the Guarantor, including all contract rights, goodwill, patents, trade marks, copyrights and other intellectual property, and all other choses in action of the Guarantor of every kind, whether due at the present time or hereafter to become due or owing;
- (e) *Documents of Title* - all present and future documents of title of the Guarantor, whether negotiable or otherwise, including all warehouse receipts and bills of lading;
- (f) *Chattel Paper* - all present and future agreements made between the Guarantor as secured party and others which evidence both a monetary obligation and a security interest in or a lease of specific goods ("Chattel Paper");
- (g) *Instruments* - all present and future bills, notes and cheques (as such are defined pursuant to the *Bills of Exchange Act* (Canada)), and all other writings that evidence a right to the payment of money and are of a type that in the ordinary course of business are transferred by delivery without any necessary endorsement or assignment ("Instruments");
- (h) *Investment Property* - all present and future investment property, including, but not limited to, shares, stock, warrants, bonds, debentures, debenture stock and other securities (whether evidenced by a security certificate or an uncertificated security) and financial assets, security entitlements, securities accounts, futures contracts and futures accounts ("Investment Property");
- (i) *Money* - all present and future money of the Guarantor, whether authorized or adopted by the Parliament of Canada as part of its currency or any foreign government as part of its currency ("Money");
- (j) *Securities* - all present and future securities held by the Guarantor, including shares, options, rights, warrants, joint venture interests, interests in limited partnerships, bonds, debentures and all other documents which constitute evidence of a share, participation or other interest of the Guarantor in property or in an enterprise or which constitute evidence of an obligation of the issuer, and including an uncertificated security within the meaning of Part VI (Investment Securities) of the *Business Corporations Act* (Ontario) and all substitutions therefor and dividends and income derived therefrom;
- (k) *Documents* - all books, accounts, invoices, letters, papers, documents and other records in any form or medium evidencing or relating to collateral subject to the Security Interest; and



- (l) *Proceeds* - all personal property in any form derived directly or indirectly from any dealing with collateral subject to the Security Interest or the proceeds therefrom, including insurance proceeds and any other payment representing indemnity or compensation for loss of or damage thereto or the proceeds therefrom ("**Proceeds**").

Without limiting the generality of the description of Collateral as set out in this Section 2, and for greater certainty, the Collateral shall include all present and future personal property of the Guarantor located on or about or in transit to or from the location(s) of the Guarantor set out in Schedule "A" attached hereto.

### **3. Attachment, Perfection, Possession and Control.**

- (a) The Guarantor acknowledges that (i) value has been given, (ii) it has rights in the Collateral or the power to transfer rights in the Collateral to the Agent (other than after-acquired Collateral), (iii) it has not agreed to postpone the time of attachment of the Security Interest, and (iv) it has received a copy of this Agreement.
- (b) The Guarantor shall promptly inform the Agent in writing of the acquisition by the Guarantor of any personal property which is not adequately described in this Agreement, and the Guarantor shall execute and deliver, from time to time, at its own expense, amendments to this Agreement and its schedules or additional security agreements or schedules as may be required by the Agent in order to preserve, protect and perfect its Security Interest in such personal property.
- (c) If the Guarantor acquires Collateral consisting of Chattel Paper, Instruments or negotiable Documents of Title (collectively, "**Negotiable Collateral**"), the Guarantor shall immediately notify the Agent and, at the request of the Agent and subject to the Comerica Security Interest, (i) endorse the same for transfer in blank or as the Agent may direct, (ii) cause any transfer to be registered wherever, in the opinion of the Agent, such registration may be required or advisable, and (iii) deliver to the Agent any and all consents or other documents which may be necessary or desirable to transfer the Negotiable Collateral.
- (d) If the Guarantor has or hereafter acquires Collateral consisting of certificated securities it shall immediately notify the Agent and, at the request of the Agent and subject to the Comerica Security Interest, immediately deliver to the Agent any and all certificates representing such Collateral (the "**Pledged Certificated Securities**") and other materials (including effective endorsements) as may be required from time to time in the opinion of the Agent, to provide the Agent with control over all Pledged Certificated Securities in the manner provided under Section 23 of the *Securities Transfer Act* (Ontario) ("**STA**"), and at the request of the Agent and subject to the Comerica Security Interest, will cause all Pledged Certificated Securities to be registered in the name of the Agent or as it may direct.

- (e) If the Guarantor has or hereafter acquires Collateral consisting of uncertificated securities it shall immediately notify the Agent and, at the request of the Agent and subject to the Comerica Security Interest, deliver to the Agent any and all such documents, agreements and other materials as may be required from time to time in the opinion of the Agent, to provide the Agent with control over all such Collateral in the manner provided under Section 24 of the STA.
- (f) If the Guarantor has or hereafter acquires Collateral consisting of security entitlements or creates Collateral consisting of one or more securities accounts it shall immediately notify the Agent and, at the request of the Agent and subject to the Comerica Security Interest, deliver to the Agent any and all such documents, agreements and other materials as may be required from time to time in the opinion of the Agent, to provide the Agent with control over all such Collateral in the manner provided under Section 25 and 26 of the STA and Section 1(2)(e) of the PPSA.
- (g) If the Guarantor has or hereafter acquires Collateral consisting of an interest in a partnership or limited liability company, it shall immediately notify the Agent and, at the request of the Agent and subject to the Comerica Security Interest, take all steps necessary in the opinion of the Agent, to ensure that such property is and remains a security for the purposes of the STA.
- (h) Subject to the Comerica Security Interest, the Guarantor shall not cause or permit any person other than the Agent to have control (as defined in the STA) of any investment property constituting part of the Collateral, other than control in favour of a depositary bank or securities intermediary which has subordinated its lien to the lien of the Agent pursuant to documentation in form and substance satisfactory to the Agent.

4. **Special Provisions Relating to Pledged Investment Property.**

- (a) Until the Security Interest becomes enforceable, the Guarantor has the right to exercise all voting, consensual and other powers of ownership pertaining to Collateral which is investment property (the "Pledged Investment Property") for all purposes not inconsistent with the terms of this Agreement, the Guarantee or the Credit Documents and the Guarantor agrees that it will not vote the Pledged Investment Property in any manner that is inconsistent with such terms.
- (b) Until the Security Interest becomes enforceable, the Guarantor may receive and retain any dividends, distributions or proceeds on the Pledged Investment Property.
- (c) Subject to the Comerica Security Interest, upon the Security Interest becoming enforceable, whether or not the Agent exercises any right to declare any Obligations due and payable or seeks or pursues any other relief or remedy available to it under applicable law or under this Agreement or otherwise, all dividends and other distributions on the Pledged Investment Property shall be

paid directly to the Agent and retained by it as part of the Collateral, and, if the Agent so requests in writing, the Guarantor will execute and deliver to the Agent any instruments or other documents necessary or desirable to ensure that the Pledged Investment Property is paid directly to the Agent for its benefit and the benefit of the Lenders.

**5. Care and Custody of Collateral.**

- (a) The Agent and the Lenders have no obligation to keep Collateral in their possession identifiable.
- (b) The Agent and the Lenders shall exercise in the physical keeping of any Negotiable Collateral or securities, only the same degree of care as it would exercise in respect of its own such property kept at the same place.
- (c) The Agent may, after the Security Interest has become enforceable, (i) notify any person obligated on an Account, Chattel Paper or Instrument to make payments to the Agent whether or not the Guarantor was previously making collections on such Accounts, Chattel Paper or Instruments, and (ii) assume control of any proceeds arising from the Collateral.

**6. Notification to Account Debtors.** The Agent may, before or after the Security Interest becomes enforceable, notify any person obligated to the Guarantor in respect of an Account, Chattel Paper, Investment Property or an Instrument to make payment to the Agent of all such present and future amounts due thereon.

**7. Exception re Leasehold Interests and Contractual Rights.** The last day of the term of any lease, sublease or agreement therefor is specifically excepted from the Security Interest, but the Guarantor agrees to stand possessed of such last day in trust for any person acquiring such interest of the Guarantor. To the extent that the creation of the Security Interest would constitute a breach or cause the acceleration of any agreement, right, licence or permit to which the Guarantor is a party, the Security Interest shall not attach thereto, but the Guarantor shall hold its interest therein in trust for the Agent and the Lenders, and the Security Interest shall attach to such agreement, right, license or permit forthwith upon obtaining the consent of the other party thereto.

**8. Representations and Warranties.** The Guarantor hereby represents and warrants as follows to the Agent and acknowledges that the Agent and the Lender are relying thereon:

- (a) the Guarantor has the capacity and authority to incur the Obligations, create the Security Interest and generally perform its obligations under this Agreement;
- (b) the execution and delivery of this Agreement and the performance by the Guarantor of its obligations hereunder have been duly authorized by all necessary proceedings;

- (c) except for the Security Interest, the Comerica Security Interest, the Permitted Encumbrances, and other liens explicitly permitted pursuant to the terms of the Loan Agreement, the Collateral is owned by the Guarantor free from any mortgage, lien, charge, encumbrance, pledge, security interest or other claim whatsoever;
- (d) the Collateral does not include any goods which are used or acquired by the Guarantor primarily for personal, family or household purposes;
- (e) Schedule "A" of this Agreement sets forth the registered office and chief executive office of the Guarantor and all civic or municipal addresses where (i) the Guarantor's business operations are located; (ii) the Collateral is located or in transit to or from; and (iii) the Guarantor's records relating to Collateral are located; and
- (f) the Collateral is located at the places warranted herein and at no other place.

**9. Covenants of Guarantor.** The Guarantor covenants and agrees in favour of the Agent as follows:

- (a) to pay or satisfy the Obligations when due;
- (b) to keep the Collateral free and clear of all taxes, assessments, liens, mortgages, charges, claims, encumbrances and security interests whatsoever, except for the Security Interest, the Comerica Security Interest and Permitted Encumbrances;
- (c) not to sell, exchange, transfer, assign, lease or otherwise dispose of or deal in any way with the Collateral or any interest therein, or enter into any agreement or undertaking to do so, except as may be permitted in this Agreement;
- (d) to keep the Collateral in good condition and to keep the Collateral located at the places warranted herein;
- (e) to obtain from financially responsible insurance companies and maintain insurance in respect of such risks and in such amounts as the Lender may reasonably require from time to time, and the Guarantor agrees to cause the interest of the Lender to be noted as its interest might appear on such policies of insurance (except public liability insurance), and to furnish the Lender with certificates of insurance and certified copies of such policies;
- (f) to promptly notify the Lender of any loss or damage to the Collateral, and of any change in any information provided in this Agreement;
- (g) to notify the Lender at least 30 days prior to any change of name of the Guarantor or change in the location of the jurisdiction of incorporation or amalgamation, registered office, chief executive office or domicile of the Guarantor;

- (h) to promptly pay all taxes, assessments, rates, levies, payroll deductions, vacation pay, workers' compensation assessments, and any other charges which could result in the creation of a statutory lien or deemed trust in respect of the Collateral;
- (i) to deliver to the Agent such information concerning the Collateral or the Guarantor as the Agent may reasonably request from time to time, including aged lists of Inventory and Accounts and annual and monthly financial statements of the Guarantor;
- (j) to allow the Agent to have access to all premises of the Guarantor at which Collateral may be located and to inspect the Collateral and all records of the Guarantor pertaining thereto from time to time; and
- (k) to do, make, execute and deliver such further and other assignments, transfers, deeds, agreements and other documents as may be required by the Agent to establish in favour of the Agent the Security Interest intended to be created hereby and to accomplish the intention of this Agreement.

**10. Enforcement.** The Security Interest shall become enforceable immediately (i) upon the occurrence of an Event of Default (and shall remain enforceable during the continuance of an Event of Default), or (ii) should the Guarantor fail to pay or perform any of the Obligations when due.

**11. Remedies.** In the event that the Security Interest becomes enforceable, the Agent and the Lenders shall have the following remedies in addition to any other remedies available at law or equity or contained in any other agreement between the Guarantor and the Agent or the Lenders, all of which remedies shall be independent and cumulative:

- (a) entry of any premises where Collateral may be located;
- (b) possession of Collateral by any method permitted by law;
- (c) the sale or lease of Collateral;
- (d) the collection of any rents, income and profits received in connection with the business of the Guarantor or the Collateral;
- (e) the collection, realization, sale or other dealing with any Accounts;
- (f) the appointment by instrument in writing of a receiver or a receiver and manager (each of which is herein called a "Receiver") of the Collateral;
- (g) the exercise by the Agent of any of the powers set out in Section 12, without the appointment of a Receiver;

- (h) proceedings in any court of competent jurisdiction for the appointment of a receiver or a receiver and manager or for the sale of the Collateral; and
- (i) the filing of proofs of claim and other documents in order to have the claims of the Agent lodged in any bankruptcy, winding-up or other judicial proceeding relating to the Guarantor.

12. **Powers of Receiver.** Any Receiver appointed by the Agent may be any person or persons, and the Agent may remove any Receiver so appointed and appoint another or others instead. Any Receiver appointed shall act as agent for the Agent and the Lenders for the purposes of taking possession of the Collateral and (except as provided below) as agent for the Guarantor for all other purposes, including without limitation the occupation of any premises of the Guarantor and in carrying on the Guarantor's business. For the purposes of realizing upon the Security Interest, the Receiver may sell, lease or otherwise dispose of Collateral as agent for the Guarantor or as agent for the Agent as it may determine in its discretion. The Guarantor agrees to ratify and confirm all actions of the Receiver acting as agent for the Guarantor, and to release and indemnify the Receiver in respect of all such actions. Any Receiver so appointed shall have the following powers:

- (a) to enter upon, use and occupy all premises owned or occupied by the Guarantor;
- (b) to take possession of the Collateral;
- (c) to carry on the business of the Guarantor;
- (d) to borrow money required for the maintenance, preservation or protection of the Collateral or for the carrying on of the business of the Guarantor, and in the discretion of such Receiver, to charge and grant further security interests in the Collateral in priority to the Security Interest, as security for the money so borrowed;
- (e) to sell, lease or otherwise dispose of the Collateral or any part thereof on such terms and conditions and in such manner as the Receiver shall determine in its discretion;
- (f) to demand, commence, continue or defend any judicial or administrative proceedings for the purpose of protecting, seizing, collecting, realizing or obtaining possession or payment of the Collateral, and to give valid and effectual receipts and discharges therefor and to compromise or give time for the payment or performance of all or any part of the Accounts or any other obligation of any third party to the Guarantor; and
- (g) to exercise any rights or remedies which could have been exercised by the Agent against the Guarantor or the Collateral.

13. **Exercising Remedies.** Any remedy may be exercised separately or in combination and is in addition to, and not in substitution for, any other rights or remedies the Agent or the Lenders may have, however created. The Agent and the Lenders are not bound to exercise any right or remedy, and the exercise of rights and remedies is without prejudice to any other rights of the Agent or the Lenders in respect of the Obligations including the right to claim for any deficiency.

14. **Dealings with Collateral.**

- (a) The Agent or the Lenders are not obliged to exhaust their recourse against the Guarantor or any other person or against any other security they may hold in respect of the Obligations before realizing upon or otherwise dealing with the Collateral in such manner as the Agent or the Lenders consider desirable.
- (b) The Agent and the Lenders may grant extensions or other indulgences, take and give up security, accept compositions, grant releases and discharges and otherwise deal with the Guarantor and with other persons, guarantors, sureties or security as they may see fit without prejudice to the Obligations, the liability of the Guarantor or the rights of the Agent and the Lenders in respect of the Collateral.
- (c) The Agent and the Lenders are not (i) liable or accountable for any failure to collect, realize or obtain payment in respect of the Collateral, (ii) bound to institute proceedings for the purpose of collecting, enforcing, realizing or obtaining payment of the Collateral or for the purpose of preserving any rights of any persons in respect of the Collateral, (iii) responsible for any loss occasioned by any sale or other dealing with the Collateral or by the retention of or failure to sell or otherwise deal with the Collateral, or (iv) bound to protect the Collateral from depreciating in value or becoming worthless.
- (d) To the extent that applicable law imposes duties on the Agent or the Lenders to exercise remedies in a commercially reasonable manner, and without prejudice to the ability of the Agent or the Lenders to dispose of the Collateral in any such manner, the Guarantor acknowledges and agrees that it is not commercially unreasonable for the Agent or the Lenders to, and the Agent or the Lenders may, in their discretion (i) incur expenses reasonably deemed significant by the Agent or the Lenders, as the case may be, to prepare the Collateral for disposition, (ii) exercise collection remedies directly or through the use of collection agencies, (iii) dispose of Collateral by way of public auction, public tender or private contract, with or without advertising and without any other formality, (iv) dispose of Collateral to a customer or client of the Agent or any Lender, (v) contact other persons, whether or not in the same business as the Guarantor, for expressions of interest in acquiring all or any portion of the Collateral, (vi) hire one or more professional auctioneers to assist in the disposition of the Collateral, whether or not the Collateral is of a specialized nature, (vii) establish an upset or reserve bid or price in respect of the Collateral, and (viii) establish such terms as to credit or otherwise as the Agent or the Lenders may determine.

- (e) The Guarantor acknowledges that the Agent or the Lenders may be unable to complete a public sale of any or all of the Collateral consisting of Investment Property by reason of certain prohibitions contained in applicable securities laws or otherwise. In connection therewith, it may be compelled to resort to one or more private sales to a restricted group of purchasers who will be obliged to agree, among other things, to acquire the Collateral for their own account for investment and not with a view to the distribution or resale thereof. Any such private sale may result in prices and other terms less favourable to the seller than if such sale were a public sale and, notwithstanding such circumstances, the Guarantor agrees that any such private sale shall not be deemed to have been made in a commercially unreasonable manner by reason of it being a private sale. The Agent and the Lenders under no obligation to delay a sale of any or all of the Collateral for the period of time necessary to permit the issuer thereof to register such Collateral for public sale under applicable securities law or otherwise, even if the issuer agrees to do so.

**15. Application of Payments.** All payments made in respect of the Obligations and all monies received by the Agent or the Lenders or any Receiver appointed by the Agent or the Lenders in respect of the enforcement of the Security Interest (including the receipt of any Money) may be held as security for the Obligations or applied in such manner as may be determined in the discretion of the Agent or the Receiver, as the case may be, and the Agent may at any time apply or change any such appropriation of such payments or monies to such part or parts of the Obligations as the Agent may determine in its discretion. The Guarantor shall remain liable to the Agent and the Lenders for any deficiency; and any surplus funds realized after the satisfaction of all Obligations shall be paid in accordance with applicable law.

**16. Notice.** Any demand, notice or other communication required or permitted to be given hereunder shall be in writing and shall be given in accordance with the terms of the Guarantee.

**17. Power of Attorney.** The Guarantor hereby constitutes and appoints the Agent or any officer thereof as its true and lawful attorney, effective upon the Security Interest becoming enforceable, with full power of substitution, to execute all documents and take all actions as may be necessary or desirable to perform any obligations of the Guarantor arising pursuant to this Agreement, and in executing such documents and taking such actions, to use the name of the Guarantor whenever and wherever it may be considered necessary or expedient. These powers are coupled with an interest and are irrevocable until all of the Obligations have been repaid in full and this Agreement is terminated and the Security Interest created herein has been released.

**18. Separate Security.** This Agreement and the Security Interest are in addition to and not in substitution for any other security now or hereafter held by the Agent or the Lenders in respect of the Guarantor, the Obligations or the Collateral and any other present and future rights or remedies which the Agent or the Lenders might have with respect thereto.

**19. No Obligation to Advance.** Nothing in this Agreement shall obligate the Agent or the Lenders to make any loan or accommodation to the Guarantor or any other party in connection with this Agreement, or extend the time for payment or satisfaction of any Obligations.



**20. Amalgamation of Guarantor.** In the event the Guarantor amalgamates with any other corporation or corporations, it is the intention of the parties that the Security Interest will (a) extend to all of the property and assets that (i) any of the amalgamating corporations own, or (ii) the amalgamated corporation thereafter acquires, and (b) secure the payment and performance of all debts, liabilities and obligations, present or future, direct or indirect, absolute or contingent, matured or unmatured, at any time or from time to time due or accruing due and owing by or otherwise payable by any of the amalgamating corporations and the amalgamated corporation to the Agent in any currency, however or wherever incurred, and whether incurred alone or jointly with another or others and whether as principal, guarantor or surety and whether incurred prior to, at the time of, or subsequent to, the amalgamation. The Security Interest will attach to the property and assets of the amalgamating corporations not previously subject to this Agreement at the time of amalgamation and to any property or assets thereafter owned or acquired by the amalgamated corporation when same becomes owned or is acquired. Upon any such amalgamation, the defined term Guarantor means, collectively, each of the amalgamating corporations and the amalgamated corporation, the defined term Collateral means all of the property, assets, undertaking and interests described in (a) above, and the defined term Obligations means the obligations described in (b) above.

**21. Amendments.** This Agreement may only be amended, supplemented or otherwise modified by written agreement of the Agent and the Guarantor.

**22. Waivers.** The Agent shall not, by any act, delay, omission or otherwise, be deemed to have expressly or impliedly waived any of its rights, powers and/or remedies unless such waiver shall be in writing and executed by an authorized officer of the Agent. Any such waiver shall be enforceable only to the extent specifically set forth therein. A waiver by the Agent of any right, power and/or remedy on any one occasion shall not be construed as a bar to or waiver of any such right, power and/or remedy which the Agent would otherwise have on any future occasion, whether similar in kind or otherwise.

**23. Discharge.** The Security Interest will be discharged upon, but only upon, (a) full and indefeasible payment and performance of the Obligations, (b) the Agent and the Lenders having no obligations under the Guarantee, this Agreement and the Credit Documents, and (c) at the request and expense of the Guarantor. In that connection, the Agent will execute and deliver to the Guarantor, at the Guarantor's sole cost and expense, such releases and discharges as the Guarantor may reasonably require.

**24. Joint and Several.** If this Agreement has been executed by more than one debtor, their obligations hereunder shall be joint and several, and all references to the "Guarantor" herein shall refer to all such debtors, as the context requires.

**25. Number, Gender and Persons.** Unless the context otherwise requires, words importing the singular in number only shall include the plural and *vice versa*, words importing the use of gender shall include the masculine, feminine and neuter genders and words importing persons shall include individuals, corporations, partnerships, associations, trusts, unincorporated organizations, governmental bodies and other legal or business entities.

**26. Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination shall not impair or affect the validity, legality or enforceability of the remaining provisions hereof, and each such provision shall be interpreted in such a manner as to render them valid, legal and enforceable to the greatest extent permitted by applicable law. Each provision of this Agreement is declared to be separate, severable and distinct.

**27. Successors and Assigns.** This Agreement is binding upon the Guarantor, its successors and assigns, and enures to the benefit of the Agent and its successors and assigns. This Agreement and all rights of the Agent are assignable without the consent of, or notice to the Guarantor, and in any action brought by an assignee to enforce this Agreement or any right or remedy, the Guarantor will not assert against the assignee any claim or defence which the Guarantor now has or hereafter may have against the Agent. Neither this Agreement nor any rights, duties or obligations under this Agreement are assignable or transferable by the Guarantor.

**28. Time.** Time shall be of the essence of this Agreement.

**29. Counterparts and Execution.** This Agreement may be executed in any number of separate counterparts (including by electronic means) and all such signed counterparts will together constitute one and the same agreement. To evidence its execution of an original counterpart of this Agreement, a party may send a copy of its original signature on the execution page hereof to the other parties by means of recorded electronic transmission and such transmission with an acknowledgement of receipt shall constitute delivery of an executed copy of this Agreement to the receiving party.

**30. Governing Law and Attornment.** This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Without prejudice to the ability of the Agent to enforce this Agreement in any other proper jurisdiction, the Guarantor irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario in connection with this Agreement.

**31. Entire Agreement.** This Agreement, the Guarantee, the Credit Documents and any other documents delivered pursuant hereto and thereto including any schedules attached hereto and thereto constitutes the entire agreement between the Guarantor and the Agent relating to the subject-matter hereof and supersede all prior agreements, representations, warranties, conditions or collateral agreements, whether oral or written, express or implied, with respect to the subject matter hereof.

**32. Expenses.** The Guarantor shall pay forthwith upon demand to the Agent all expenses ("Expenses"), including the reasonable fees, disbursements and other charges of its counsel (on a solicitor and his own client basis), experts or agents which the Agent may incur in connection with (i) the negotiation and preparation of this Agreement, (ii) the administration of this Agreement, (iii) the custody or preservation of, or the sale of, collection from or other realization upon any of the Collateral, (iv) the exercise, enforcement or protection of any of the rights of the

Agent hereunder or (v) the failure of the Guarantor to perform or observe any of the provisions hereof.

**33. Further Assurances.** The Guarantor shall from time to time, whether before or after the Security Interest has become enforceable, do all acts and things and execute and deliver all transfers, assignments and agreements as the Agent may reasonably require for (a) protecting the Collateral, (b) perfecting the Security Interest, (c) obtaining control of the Collateral, (d) exercising all powers, authorities and discretions conferred upon the Agent, and (e) otherwise enabling the Agent to obtain the full benefits of this Agreement and the rights and powers herein granted. The Guarantor shall, from time to time after the Security Interest has become enforceable, do all acts and things and execute and deliver all transfers, assignments and agreements as the Agent may require for facilitating the sale or other disposition of the Collateral in connection with its realization.

**34. Copy of Agreement.** The Guarantor acknowledges receipt of an executed copy of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

This Agreement has been executed by the Guarantor as of the date first stated above.

**THEREDPIN.COM REALTY INC.**

Per: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

I have authority to bind the corporation.

Guarantee - TheRedPin.com Realty Inc.

**Schedule "A"**

**Location(s) of Guarantor**

1. 5 Church Street, Toronto, Ontario, M5E 1M2

**TAB C**



# TheRedPin™

A Different Kind of Brokerage

KPMG LLP  
Bay Adelaide Centre  
333 Bay Street  
Suite 4600  
Toronto, Ontario M5H 2S5

October 11, 2016

Ladies and Gentlemen:

We are writing at your request to confirm our understanding that your audit was for the purpose of expressing an opinion on the consolidated financial statements (hereinafter referred to as "financial statements") of THEREDPIN, INC. ("the Entity") as at December 31, 2015 and for the period ended December 31, 2015.

**GENERAL:**

We confirm that the representations we make in this letter are in accordance with the definitions as set out in Attachment I to this letter.

We also confirm that, to the best of our knowledge and belief, having made such inquiries as we considered necessary for the purpose of appropriately informing ourselves:

**RESPONSIBILITIES:**

- 2) We have fulfilled our responsibilities, as set out in the terms of the engagement letter dated October 3, 2016, for:
  - a) the preparation and fair presentation of the financial statements and believe that these financial statements have been prepared and present fairly in accordance with the relevant financial reporting framework
  - b) providing you with all relevant information, such as all financial records and related data, including the names of all related parties and information regarding all relationships and transactions with related parties, and complete minutes of meetings, or summaries of actions of recent meetings for which minutes have not yet been prepared, of owners, board of directors and committees of the board of directors that may affect the financial statements, and access to such relevant information
  - c) such internal control as management determined is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error. Management also acknowledges and understands that they are responsible for the design, implementation and maintenance of internal control to prevent and detect fraud.
  - d) ensuring that all transactions have been recorded in the accounting records and are reflected in the financial statements.

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#### INTERNAL CONTROL OVER FINANCIAL REPORTING:

- 2) We have communicated to you all deficiencies in the design and implementation or maintenance of internal control over financial reporting of which management is aware.

#### FRAUD & NON-COMPLIANCE WITH LAWS AND REGULATIONS:

- 3) We have disclosed to you:
  - a) the results of our assessment of the risk that the financial statements may be materially misstated as a result of fraud
  - b) all information in relation to fraud or suspected fraud that we are aware of and that affects the Entity and involves: management, employees who have significant roles in internal control, or others, where the fraud could have a material effect on the financial statements
  - c) all information in relation to allegations of fraud, or suspected fraud, affecting the Entity's financial statements, communicated by employees, former employees, analysts, regulators, or others
  - d) all known instances of non-compliance or suspected non-compliance with laws and regulations, including all aspects of contractual agreements, whose effects should be considered when preparing financial statements
  - e) all known actual or possible litigation and claims whose effects should be considered when preparing the financial statements

#### SUBSEQUENT EVENTS:

- 4) All events subsequent to the date of the financial statements and for which the relevant financial reporting framework requires adjustment or disclosure in the financial statements have been adjusted or disclosed.

#### RELATED PARTIES:

- 5) We have disclosed to you the identity of the Entity's related parties.
- 6) We have disclosed to you all the related party relationships and transactions/balances of which we are aware.
- 7) All related party relationships and transactions/balances have been appropriately accounted for and disclosed in accordance with the relevant financial reporting framework.

#### ESTIMATES:

- 8) Measurement methods and significant assumptions used by us in making accounting estimates, including those measured at fair value, are reasonable.

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## GOING CONCERN:

- 9) We have provided you with all relevant information relevant to the use of the going concern assumption in the financial statements
- 10) Material uncertainties related to events and conditions that may cast significant doubt on the Entity's ability to continue as a going concern are fully disclosed in the financial statements.
- 11) Subsequent to year end, the Entity issued \$1,000,000 of additional Series B-2 preferred shares and pursued further financing activities of \$2,500,000 for a period of three years. We believe that our plan is sufficient to enable the Entity to achieve its business plans

## MISSTATEMENTS

- 12) The Effects of the uncorrected misstatements described in Attachment II are immaterial, both individually and in the aggregate, to the financial statements as a whole.
- 13) We approve the corrected misstatements identified by you during the audit described in Attachment II

## NON-SEC REGISTRANTS OR NON-REPORTING ISSUERS:

- 14) We confirm that the Entity is not a Canadian reporting issuer (as defined under any applicable Canadian securities act) and is not a United States Securities and Exchange Commission ("SEC") issuer (as defined by the Sarbanes-Oxley Act of 2002). We also confirm that the financial statements of the Entity will not be included in the consolidated financial statements of a Canadian reporting issuer audited by KPMG or an SEC issuer audited by any member of the KPMG organization.

## REPRESENTATIONS REGARDING TITLE TO ASSETS, CLASSIFICATION AND CARRYING AMOUNT OF ASSETS, AND IMPAIRMENT OF ASSETS

- 15) The Entity has satisfactory title to all assets.
- 16) We confirm that we have appropriately performed impairment testing in accordance with IAS 36 *Impairment of Assets*
- 17) We have no non-current assets or disposal groups that are required by IFRS 5, *Non-current Assets Held for Sale and Discontinued Operations*, to be classified as held for sale

## REPRESENTATIONS REGARDING MANAGEMENT INTENT AND PLANS, AND OTHER INFORMATION THAT IS KNOWN ONLY TO MANAGEMENT

- 18) There are no liens or encumbrances on the Entity's assets, except for those that are disclosed in Notes to the financial statements
- 19) We have no knowledge of any liens or encumbrances on assets and/or assets that have been pledged or assigned as security for liabilities, performance of contracts etc. not disclosed in the financial statements.
- 20) We have no plans or intentions that may affect the carrying amount or classification of assets and liabilities.

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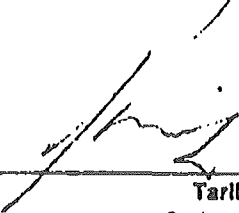


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- 21) We have no knowledge of shortages that have been discovered and not disclosed to you (such as shortages in cash, negotiable instruments, etc)
- 22) We have no knowledge of side arrangements (contractual or otherwise) with any parties that have not been disclosed to you.
- 23) We have no knowledge of material unrecorded assets or liabilities or contingent assets or liabilities (such as claims related to patent infringements, unfulfilled contracts etc., whose values depend on the fulfillment of conditions regarded as uncertain or receivables sold or discounted, endorsements or guarantees, additional taxes for prior years, repurchase agreements, sales subject to negotiations or price re-determination, etc)
- 24) There are no adverse environmental conditions, structural deficiencies, or deferred capital expenditures that have not been otherwise disclosed to you
- 25) We confirm that we have disclosed to you all information in relation to the following matters:
  - onerous contracts, i.e. those contracts under which the unavoidable costs of meeting the obligation exceed the economic benefits to be received under it, including losses arising from sale and purchase commitments that are onerous contracts under IAS 37 *Provisions, Contingent Liabilities and Contingent Assets*;
  - liabilities for interest on deposits and other indebtedness, including subordinated notes and participation loans;
  - losses from transactions not recognized in the statement of financial position;
  - agreements and options to buy back assets previously sold, including sales with recourse;
  - assets pledged as collateral;
  - arrangements with financial institutions involving restrictions on cash balances and lines of credit or similar arrangements;
- 26) the Entity has complied with all aspects of contractual agreements that could have a material effect on the financial statements in the event of non-compliance, for example debt covenants.
- 27) There are no formal or informal compensating balance arrangements with any of our cash and investment accounts. Except as disclosed in the Notes to the financial statements, we have no other line of credit arrangements.

Yours very truly,

  
\_\_\_\_\_  
Tarik Gidamy  
Broker of Record

  
\_\_\_\_\_  
Sanja Durbic  
Director of Finance

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## MATERIALITY

Certain representations in this letter are described as being limited to matters that are material. Misstatements, including omissions, are considered to be material if they, individually or in the aggregate, could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements. Judgments about materiality are made in light of surrounding circumstances, and are affected by the size or nature of a misstatement, or a combination of both.

## FRAUD & ERROR

Fraudulent financial reporting involves intentional misstatements including omissions of amounts or disclosures in financial statements to deceive financial statement users.

Misappropriation of assets involves the theft of an entity's assets. It is often accompanied by false or misleading records or documents in order to conceal the fact that the assets are missing or have been pledged without proper authorization.

An error is an unintentional misstatement in financial statements, including the omission of an amount or a disclosure.

## RELATED PARTIES

In accordance with International Financial Reporting Standards *related party* is defined as:

- a) A person or a close member of that person's family is related to the reporting Entity if that person:
  - i) has control or joint control over the reporting Entity;
  - ii) has significant influence over the reporting Entity; or
  - iii) is a member of the key management personnel of the reporting Entity or of a parent of the reporting Entity.
- b) An Entity is related to a reporting Entity if any of the following conditions applies:
  - i) The Entity and Reporting Entity are members of the same group (which means that each parent, subsidiary and fellow subsidiary is related to the others).
  - ii) One Entity is an associate or joint venture of the other Entity (or an associate or joint venture of a member of a group of which the other Entity is related to the others).
  - iii) Both entities are joint ventures of the same third party.
  - iv) One Entity is a joint venture of a third Entity and the other Entity is an associate of the third Entity.
  - v) The Entity is a post-employment benefit plan for the benefit of employees of either the reporting Entity or an entity related to the reporting Entity. If the reporting Entity is itself such a plan, the sponsoring employers are also related to the reporting Entity.
  - vi) The Entity is controlled or jointly controlled by a person identified in a).
  - vii) A person identified in a) i) has significant influence over the Entity or is a member of the key management personnel of the Entity (or of a parent of the Entity).

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In accordance with International Financial Reporting Standards a *related party transaction* is defined as:  
A transfer of resources, services or obligations between a reporting entity and a related party, regardless of whether a price is charged.

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**TAB D**

**EXHIBIT C**

**COMPLIANCE CERTIFICATE**

Please send all Required Reporting to:

Comerica Bank – California  
Technology & Life Sciences Division  
Loan Analysis Department  
Five Palo Alto Square, Suite 800  
3000 El Camino Real  
Palo Alto, CA 94306  
Phone: (650) 846-6820  
Fax: (650) 846-6840

FROM: THEREDPIN, INC.

The undersigned authorized Officer of THEREDPIN, INC. ("Borrower"), hereby certifies that in accordance with the terms and conditions of the Loan Agreement, as modified from time to time, (i) Borrower is in complete compliance for the period ending May 31, 2017 with all required terms and conditions, except as noted below and (ii) all representations and warranties of Borrower stated in the Agreement are true and correct as of the date hereof. Attached herewith are the required documents supporting the above certification. The Officer further certifies that these are prepared in accordance with Generally Accepted Accounting Principles (GAAP) and are consistent from one period to the next, except as explained in an accompanying letter or footnotes.

Please indicate compliance status by circling Yes/No under "Complies" column.

<b><u>REPORTING COVENANTS</u></b>	<b><u>REQUIRED</u></b>	<b><u>COMPLIES</u></b>	
Borrowing Base Certificate	Monthly, within 30 days	<input checked="" type="radio"/> YES	NO
Company Prepared F/S (including without limitation consolidated balance sheet, income statement, cash flow statement and accounts receivable and accounts payable agings)	Monthly, within 30 days	<input checked="" type="radio"/> YES	NO
Compliance Certificate	Monthly, within 30 days	<input checked="" type="radio"/> YES	NO
Audited F/S	Annually, within 300 days of FYE	<input checked="" type="radio"/> YES	NO
Operating budgets annual budgets and forecasts	Annually, within 30 days of FYE	<input checked="" type="radio"/> YES	NO
Intellectual property report	Quarterly, within 30 days	<input checked="" type="radio"/> YES	NO
EDC Insurance Certificate	Monthly, within 30 days (if applicable)	<input checked="" type="radio"/> YES	NO



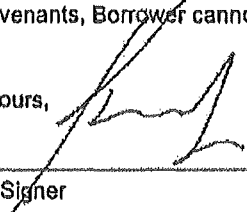
Cross Default with other agreements (>\$50,000)	Notify promptly upon notice	<input checked="" type="radio"/> YES	NO
Judgments (>\$50,000)	Notify promptly upon notice	<input checked="" type="radio"/> YES	NO

<u>FINANCIAL COVENANTS</u>	<u>REQUIRED</u>	<u>COMPLIES</u>	
EBITDA	See Section 6.12	<input checked="" type="radio"/> YES	NO

Please Enter Below Comments Regarding Covenant Violations:

On behalf of Borrower, the Officer further acknowledges that at any such time as Borrower is out of compliance with any of the terms set forth in the Loan Agreement, including, without limitation, any of the financial covenants, Borrower cannot receive any advances.

Very truly yours,

  
\_\_\_\_\_  
Authorized Signer

Name: Tarik Gidamy

Title: Director

**BANK USE ONLY**

Rec'd by: \_\_\_\_\_

Date: \_\_\_\_\_

Reviewed by: \_\_\_\_\_

Date: \_\_\_\_\_

Financial Compliance Status: \_\_\_\_\_ YES/NO

EXHIBIT  
REVOLVING BORROWING BASE CERTIFICATE

Borrower: The ArdPjn  
Revolving Commitment Amount: CAD 2,000,000

Page 1 of 3

**ACCOUNTS RECEIVABLE**

<b>1</b>	<b>TOTAL NEW BUILD ACCOUNTS RECEIVABLE (BOOK VALUE) AS OF</b>	<b>May 31, 2017</b>	<b>5,057,316</b>
	ACCOUNTS RECEIVABLE DEDUCTIONS (without duplication)		
<b>2</b>	Amounts expected to be received after twenty (20) days	\$ 2,317,521	
<b>3</b>	Credit Balances over hundred and twenty (120) days	\$ _____	
<b>4</b>	Concentration limits 25% - see list of Concentration Exceptions*	\$ _____	
<b>5</b>	Accounts subject to legislated "cooling off" period	\$ 310,317	
<b>6</b>	Cross Age Rule (25%)	\$ _____	
<b>7</b>	Foreign Accounts - see list of Foreign Account Exceptions**	\$ _____	
<b>8</b>	Government Accounts	\$ _____	
<b>9</b>	Contra Accounts	\$ _____	
<b>10</b>	Promotion or Demo Accounts	\$ _____	
<b>11</b>	Intercompany/Employee Accounts	\$ _____	
<b>12</b>	Accounts with Refundable Clause	\$ 3,526,765	
<b>13</b>	Accounts with adjusted installment dates	\$ 268,461	
<b>14</b>	<b>TOTAL ACCOUNTS RECEIVABLE DEDUCTIONS</b> Sum Lines #2 to #13		<b>4,442,064</b>
<b>15</b>	Eligible Accounts	Line #1 - #14	615,252
<b>16</b>	<b>LOAN VALUE OF NEW BUILD AR</b>	Advance Rate (% of #15)	80% <span style="border: 1px solid black; padding: 2px;">492,201</span>
<b>17</b>	<b>TOTAL INSURED ACCOUNTS RECEIVABLE (BOOK VALUE) AS OF</b>	<b>May 31, 2017</b>	<b>0</b>
	ACCOUNTS RECEIVABLE DEDUCTIONS (without duplication)		
<b>18</b>	Amounts expected to be received after twenty (20) days	\$ _____	
<b>19</b>	Credit Balances over ninety (90) days	\$ _____	
<b>20</b>	Concentration limits 25% - see list of Concentration Exceptions*	\$ _____	
<b>21</b>	Accounts subject to legislated "cooling off" period	\$ _____	
<b>22</b>	Cross Age Rule (25%)	\$ _____	
<b>23</b>	Foreign Accounts	\$ _____	
<b>24</b>	Government Accounts	\$ _____	
<b>25</b>	Contra Accounts	\$ _____	
<b>26</b>	Promotion or Demo Accounts	\$ _____	
<b>27</b>	Intercompany/Employee Accounts	\$ _____	
<b>28</b>	Accounts with Refundable Clause	\$ _____	
<b>29</b>	<b>TOTAL INSURED ACCOUNTS RECEIVABLE DEDUCTIONS</b>	Sum Lines #18 to #28	<b>0</b>
<b>30</b>	Eligible Accounts	Line #18 - #29	<b>0</b>
<b>31</b>	<b>LOAN VALUE OF INSURED AR</b>	Advance Rate (% of #29)	90% <span style="border: 1px solid black; padding: 2px;">0</span>
<b>32</b>	<b>TOTAL RESALE/MORTGAGE ACCOUNTS RECEIVABLE (BOOK VALUE) AS OF</b>	<b>May 31, 2017</b>	<b>1,655,841</b>
	ACCOUNTS RECEIVABLE DEDUCTIONS (without duplication)		
<b>33</b>	Amounts over after twenty (20) days	\$ 58,082	
<b>34</b>	Credit Balances over hundred and twenty (120) days	\$ _____	
<b>35</b>	Concentration limits 25% - see list of Concentration Exceptions*	\$ _____	
<b>36</b>	Accounts subject to legislated "cooling off" period	\$ _____	
<b>37</b>	Cross Age Rule (25%)	\$ _____	
<b>38</b>	Foreign Accounts - see list of Foreign Account Exceptions**	\$ _____	
<b>39</b>	Government Accounts	\$ _____	
<b>40</b>	Contra Accounts	\$ _____	
<b>41</b>	Promotion or Demo Accounts	\$ _____	
<b>42</b>	Intercompany/Employee Accounts	\$ _____	
<b>43</b>	Accounts with Refundable Clause	\$ _____	
<b>44</b>	Mortgage broker AR in excess of \$75,000 and 90 days	\$ _____	
<b>45</b>	<b>TOTAL ACCOUNTS RECEIVABLE DEDUCTIONS</b>	Sum Lines #32 to #44	<b>58,082</b>
<b>46</b>	Eligible Accounts	Line #31 - #44	1,597,759
<b>47</b>	<b>LOAN VALUE OF RESALE/MORTGAGE AR</b>	Advance Rate (% of #45)	80% <span style="border: 1px solid black; padding: 2px;">1,278,207</span>

47 TOTAL REFUNDABLE NEW BUILD AR (BOOK VALUE) AS OF		<u>May 31, 2017</u>	1,276,765
ACCOUNTS RECEIVABLE DEDUCTIONS (without duplication)			
48 Amounts expected to be received after ninety (90) days		1,279,074	
49 Credit Balances over ninety (90) days		\$ _____	
50 Concentration limits 25% - see list of Concentration Exceptions*		\$ _____	
51 Accounts subject to legislated "cooling off" period		\$ _____	
52 Credit Age Rule (75%)		\$ _____	
53 Foreign Accounts - see list of Foreign Account Exceptions**		\$ _____	
54 Government Accounts		\$ _____	
55 Contra Accounts		\$ _____	
56 Promotion or Demo Accounts		\$ _____	
57 Intercompany/Employee Accounts		\$ _____	
58 Accounts with Refundable Clause		\$ _____	
59 Accounts with adjusted installment dates		\$ _____	
60 TOTAL ACCOUNTS RECEIVABLE DEDUCTIONS		Sum Lines #48 to #59	1,279,074
61 Eligible Accounts	Line #47 - # 60	247,692	
62 LOAN VALUE OF REFUNDABLE AR	Advance Rate (% of #61)	35%	<u>86,692</u> capped at \$250,000
63 TOTAL ELIGIBLE TAX CREDITS RECEIVABLES			
64 LOAN VALUE OF TAX CREDITS RECEIVABLES	Advance Rate (% of #63)	30%	
65 MAXIMUM LOAN VALUE OF TAX CREDITS RECEIVABLES			CAD 1,500,000
66 TOTAL LOAN VALUE OF TAX CREDITS RECEIVABLE	The lesser of lines #64 and #65		<u>                    </u>
67 TOTAL ELIGIBLE ACCRUED TAX CREDITS RECEIVABLES			
68 LOAN VALUE OF ACCRUED TAX CREDITS RECEIVABLE	Advance Rate (% of #67)	60%	
69 MAXIMUM LOAN VALUE OF ACCRUED TAX CREDITS RECEIVABLES			CAD 1,500,000
70 TOTAL LOAN VALUE OF ACCRUED TAX CREDITS	The lesser of lines #68 and #69		<u>                    </u>
71 TOTAL LOAN VALUE OF NEW BUILD, INSURED, RESALE/MORTGAGE, REFUNDABLE, TAX CREDITS, AND ACCRUED TAX CREDITS	Line #15 + #30 + #35 + #33		<u>1,957,101</u>

REVOLVING BORROWING BASE CERTIFICATE

Borrower:	TheRedPin	Page 3 of 3
<u>Adjustments to Borrowing Base</u>		
71 Priority Claims		80,000
72 Rent Reserve (3 month reserve)		42,592
74 TOTAL BORROWING BASE	Line #71 - #72 - #73	<u>1,734,508</u>
75 LOAN COMMITMENT		CAD 2,000,000
76 MAXIMUM LOAN AVAILABILITY	The lesser of lines #74 and #75	<u>1,734,508</u>
LOAN BALANCES		
77 Outstandings under the Revolving Line		1,494,948
78 TOTAL OUTSTANDING	Line #77	<u>1,494,948</u>
79 NET AVAILABILITY	Line #76 less #78	<u>239,561</u>

\*Concentration Exceptions  
N/A

\*\*Foreign Account Exceptions  
N/A

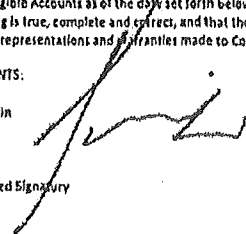
The undersigned represents and warrants that the attached Schedule sets forth a true, complete and correct listing of the Eligible Accounts as of the date set forth below. The undersigned further represents and warrants that the foregoing is true, complete and correct, and that the information in this Revolving Borrowing Base Certificate complies with the representations and warranties made to Comerica Bank.

COMMENTS:

TheRedPin

By:  
Authorized Signatory

Date:



# TAB E

**STRICTLY CONFIDENTIAL**

May 19, 2017

TheRedPin, Inc.  
5 Church Street  
Toronto, Ontario  
M5E 1M2

Attention: Keith McSpurren

cc:

Trilogy Growth Fund LP  
Suite 4720, 161 Bay Street  
Toronto, Ontario  
M5J 2T3

Attention: Joel Silver

Dear Sir;

**RE: Reservation of Rights**

Reference is made to the Loan Agreement made as of February 15, 2017 between, amongst others, TheRedPin, Inc., as borrower (the "**Borrower**"), TheRedPin Brokerage, BC Inc., TheRedPin.com Realty Inc., TheRedPin Mortgage Brokerage Inc., as guarantors and FIREPOWER DEBT GP INC., as agent (the "**Agent**"), (as the same may be amended, restated, supplemented, revised or replaced from time to time, the "**Loan Agreement**").

Capitalized terms used in this letter and not otherwise defined herein shall have the meaning specified in the Loan Agreement.

As of the date hereof, Existing Events of Default (as defined below) have occurred and are continuing.

**“Existing Events of Default”** include, but are not limited to:

- (a) The Borrower has failed to deliver the required documentation in respect of the life insurance on the life of Tarik Gidamy, within sixty (60) days of the Closing Date, as required pursuant to Section 32 (o) of the Loan Agreement.
- (b) The Borrower has failed to deliver the completed IT escrow agreement within sixty (60) days of the Closing Date.
- (c) For the period from January 1, 2017 through April 30, 2017, the Borrower reported cumulative Net Deal Revenue of \$3,892,440. Pursuant to the Loan Agreement (Financial Covenants – Section 1), the Borrower is required to maintain a cumulative Net Deal Revenue of \$4,282,421 for such period.

Neither this letter nor any of the Agent’s failures to exercise any of its rights and remedies as provided in the Loan Agreement or otherwise to take action in consequence of such Events of Default, shall in any way be interpreted or construed as (i) a waiver of any Existing Events of Default or any new Events of Default which may have occurred or are continuing as of the date of this letter or which may occur after the date of this letter or (ii) as an agreement on the Agent’s part to waive from exercising any of its rights or remedies at any time, (iii) any amendment to any of the Loan Agreement or the other Credit Documents, or (iv) any amendment to or constraint on the rights of the Agent to demand full repayment of the loan at any time.

For greater certainty, the Agent hereby expressly reserves all of its rights and remedies under the Loan Agreement or at law or in equity, including, without limitation, to demand payment of all obligations thereunder, to restrict the amount of or refuse to make further advances, to terminate its commitments or to enforce any of the remedies available under the Loan Agreement or other Credit Documents. The Agent shall be entitled to take any steps it considers necessary or appropriate to protect or recover its position at any time without further notice except as mandated by law.

Subject to the statements above, we hereby request that you present us with a written plan (the **“Plan”**) to remedy the Existing Events of Default, avoid future covenant breaches (financial and otherwise), and provide for a commitment from the Borrowers shareholder(s) for an equity capital injection in form, timing, and amount satisfactory to the Agent, prior to 4:00 p.m. on May 31, 2017 (the **“Delivery Time”**). To the extent the Agent has not enforced any remedies pursuant to the Credit Documents on or before the Delivery Time, and at such time the Agent is satisfied, in its sole and absolute discretion with the Plan, the Agent may consider waiving some or all the Existing Events of Default. Without limiting any other rights of the Agent (including rights of acceleration and enforcement), if a Plan acceptable to the Agent is not accepted by the Delivery Time, pursuant to Section 21 of the Credit Agreement, the interest rate shall be increased to 20% per annum, effective May 15, 2017. For greater certainty, such increased interest rate shall continue until all Events of Default are cured or waived by the Agent.

FIREPOWER DEBT GP INC., as agent

Per:

Per:



**TAB**

**4**

October 15, 2018

**SENT BY EMAIL TO: Harvey@chaitons.com**

Harvey G. Chaiton  
Chaitons LLP  
5000 Yonge St,  
North York, ON M2N 7E9

**SENT BY EMAIL TO: akauffman@fasken.com**

Mr. Aubrey Kauffman,  
Faskens  
Bay Adelaide Centre  
333 Bay Street, Suite 2400  
P.O. Box 20,  
Toronto, ON M5H 2T6

Dear Counsel:

**Re: Paccione et al. re: Insolvency of the Red Pin Inc.  
Our File No. 50859**

I write to answer the undertakings given on cross-examination.

**Cross-Examination of Dennise Paccione**

Undertaking

1. *To advise whether there are any material facts that Ms. Paccione disagrees with in the September 10, 2018 Second Report of the Receiver and the Supplement to the Second Report.*

Ms. Paccione relies on her affidavit where the facts in his affidavit conflict with those in the Receiver's report.

2. *To provide copies of Ms. Paccione's June 1, 2016 and February 1, 2017 contracts with TRP Realty.*

Please see attached

3. *To advise what "contract" is referred to on the trade record sheet and what the basis for the position is.*

Our position is that the contract is the independent contractor's agreement, and that the contract provides for the creation of a trust over the commissions.

Under Advisement/Refusal

1. *To provide a copy of Dennise's contract with Millborne.*  
Ms. Paccione has been unable to locate her contract with Millborne.
2. *To provide a copy of Dennise's initial employment contract with TRP Realty and any amendments to same.*  
Please see attached.

**Cross-Examination of Tarik Gidamy**

Undertaking

1. *To advise whether there are any material facts that Tarik disagrees with in the September 10, 2018 Second Report of the Receiver and the Supplement to the Second Report.*  
Mr. Gidamy relies on his affidavit where the facts in his affidavit conflict with those in the Receiver's report.
2. *To advise whether RECO requires there to be a separate account to hold agent's commissions in trust*  
RECO does not require there to be a separate account for agent's commissions, but it is best practice.
3. *To advise whether agent's interest in commissions is a permitted encumbrance under the GSA*  
The commissions are not secured under the GSA.
4. *To advise whether cash back had to be paid from commissions account rather than operating account.*  
The cash back was paid from the operating account. No rules or regulations specify from where the cashback had to be paid.

Under Advisement/Refusal

5. *To provide a copy of Tarik's employment agreement and any amendments to it*  
Please see attached.

Yours very truly,



Jordan Goldblatt

JG/ss  
cc. Mr. Jeff Klein



## SALES REPRESENTATIVE AGREEMENT

THIS AGREEMENT is made and entered into as of July 22<sup>nd</sup>, 2013.

Between:

**THEREDPIN.COM REALTY INC.**, a corporation incorporated under the laws of the Province of Ontario

(the "Employer")

-and-

Dennise Paccione

(the "Employee").

**WHEREAS** the Employer and the Employee are desirous of entering into an employment relationship for their mutual benefit;

**AND WHEREAS** The Employer and Employee wish to confirm specific terms and conditions of said employment relationship;

**NOW THEREFORE IN CONSIDERATION** of the above, and in further consideration of the mutual promises and covenants herein contained, this Agreement (the "Agreement") witnesses that the parties hereto agree as follows:

### **1. Indefinite Term**

The Employee will commence employment on July 22<sup>nd</sup>, 2013 and his/her employment will be subject to the terms and conditions set out in this Agreement. The Employee's employment will continue for an indefinite period unless terminated in accordance with the terms and conditions set out in this Agreement.

### **2. Position and Duties**

It is a condition of employment with the Employer that the Employee be a duly qualified and licensed real estate salesperson as defined by and in accordance with the requirements set out in the *Real Estate and Business Brokers Act, 2002*. It is also a condition of employment with the Employer that the Employee be a member in good standing of the Toronto Real Estate Board (TREB).

The Employee's duties are set out below and include any other related duties that the Employer may from time to time assign in its sole discretion. The Employee specifically agrees that the Employer will have the right to make reasonable changes to his or her duties, reporting relationships, and other terms of employment without notice, and agrees that such changes will not constitute constructive dismissal. Without restricting the generality of the foregoing, the Employee hereby agrees to the following:

- a) The Employee will provide realtor services to the Employer's clients and potential clients, including without limitation, assisting clients and potential clients search, tour and negotiate real estate transactions, with the highest level of customer service

- b) The Employee will seek to increase the Employer's client base.
- c) The Employee will provide services in a timely manner and in accordance with best practices in the industry.
- d) The Employee will provide the Employer with daily updates on all ongoing client matters and potential client leads using the applicable software and solutions provided by the Employer, in accordance with the Employer's policies, rules and standards.
- e) The Employee shall utilize social networking resources in accordance with the Employer's policies, rules and standards for the purpose of marketing to potential clients and in the course of securing sales. The Employee must comply with the Employer's Social Media Policy at all times.
- f) The Employee will work on a full time basis and will work on weekends, evenings and holidays as may be necessary to perform the job duties.
- g) The Employee will attend all meetings and training seminars as instructed by their manager or other Employer representative.
- h) The Employee shall comply with all laws and regulations applicable to the Employer and the Employee as well as rules and policies of the Employer, including but not limited to any codes of ethics and business practices set out by law and/or regulation that apply to salespersons engaged in the trade of real estate.
- i) The Employee agrees to use their personal vehicle were required to perform their job duties and will at all times maintain a valid driver's licence and insurance coverage for their vehicle (with a coverage of no less than two million dollars in third party liability).
- j) The Employee shall devote his/her full time, attention and ability to the business of the Employer and shall duly and diligently perform all duties assigned to you while in the employ of the Employer and shall use your best efforts to promote the business interests of Employer.

### **3. Conditional Offer**

This Agreement and the Employee's Employment with the Employer is conditional upon receipt of satisfactory background checks, including academic and professional checks, as well as proof of that Employee is a duly qualified and licensed real estate salesperson as defined by and in accordance with the requirements set out in the *Real Estate and Business Brokers Act, 2002* and is a member in good standing with the TREB.

### **4. Probationary Period**

The Employee is subject to a mandatory probation period of 90 days, commencing on the first day of employment being July 22<sup>nd</sup>, 2013. The purpose of the Probationary Period is to assess the Employee's performance and suitability for the position. The Employee will be expected to secure a minimum of six (6) firm (i.e., unconditional) real estate transactions during this period.

The Parties agree that during the Probationary Period, the Employee is required to provide one (1) week's written notice to the Employer in the event of resignation. The Employer shall be entitled to terminate this Agreement and the Employee's Employment during the Probationary

Period without notice or pay in lieu thereof, for any reason, and the Employee shall not be entitled to any notice or pay in lieu thereof under statute, common law, contract or in equity.

The Employer has the right to extend the Probationary Period as it deems appropriate for a further three (3) month period and if the Employee's Employment is terminated on a without cause basis during any extension of the Probationary Period, the Employee shall only be entitled to the notice or pay in lieu thereof as provided for in the *Employment Standards Act, 2000* (as may be amended), and will not be entitled to any other notice or pay in lieu thereof under statute, common law, contract or in equity.

## **5. Compensation**

### ***Base Salary***

The Employer shall pay the Employee a gross annual salary of \$70,000.00, less applicable deductions, semi-monthly basis by direct deposit.

### ***Bonus***

For each VIP deal that you are involved with, you will receive a bonus of 0.2% of the transaction value net of rebate, parking, locker, TRP incentives and/or HST where applicable. VIP deals refer to projects that are not yet open to the public. This is paid quarterly within 30 days of the quarters end, on firm completely executed deals, with all the necessary documentation.

You may be offered non-VIP leads from The Employer. You will be entitled to \$1,250 per closed deals once The Employer gets paid according to TREB rules for resale deals or on the following payroll from first payment from the developer for new and pre-construction deals.

### ***Agent's Deals***

The employee may also receive bonuses on properties that he/she lists and sells for clients who have not come through the Employers website, The Employers other referral channels, assigned by The Employer or have not been otherwise marketed to or solicited by the other employees or agents of the employer. The Employee is only entitled to list and/or sell to non-employer clients or referrals a maximum of five (5) listings/sales per calendar year to his/her own clients as defined in this section. The Employee agrees to a bonus split of 80% to The Employee and 20% to The Employer, net of client rebate, on all firm real estate sales to The Employee's own clients as defined in this section. This does not include leases, as we do not cater to them.

Bonus payable on Bonus able Transactions for new and pre-construction are subject to withholding taxes and payable to the Employee in the pay period following five business days after the Employer has received the first instalment payment from the builder or developer as the case may be. For resale transactions, bonuses are payable in accordance with the Real Estate Council of Ontario's rules and regulations on the pay period after the closing date upon successful completion of the transaction and receipt of funds from the seller/vendor. The Company processes payroll on the 15<sup>th</sup> and last day of each month

## **6. Expenses**

The Employer shall provide The Employee a monthly automobile allowance of \$200 for the purpose of travelling to attend or conduct open houses, viewing or showing a property and/or travelling to a client's premises for work purposes.

The Employer shall provide The Employee a monthly cellular phone allowance of \$30.

The Employer may reimburse the Employee for other work-related expenses incurred by the Employee in the course of carrying out their job duties at its sole discretion.

#### **7. Professional Dues and RECO Insurance**

Upon successful completion of the Probationary Period (and any extension thereof), the Employer shall pay the Employee's annual professional licensing dues and insurance fees payable to TREB and RECO and to any other applicable regulatory body approved by the Employer. In the event that the Employee's employment ceases for any reason, the Employee agrees to repay a prorated portion of these dues to the Employer equal to the balance of the year in which the Employee is no longer in the employ of the Employer and any other transfer or termination fees prescribed by RECO and/or TREB. The Employee agrees that during the Probationary Period (and any extension thereof) he/she is responsible for ensuring that all dues and insurance payments are paid in full and up to date.

#### **8. Deductions**

The Employer has the right and obligation to deduct and withhold from the Employee's pay, including any pay in lieu of notice of termination, any amounts required to be deducted and withheld including source deductions, CPP and EI.

If, at the time of termination of this Agreement, the Employee owes money to the Employer for whatever reason, the Employee agrees that the Employer will have the right, subject to statutory compliance, to deduct the amount owing from any payments that are to be paid to the Employee.

#### **9. Benefits**

Once you have successfully completed the Probationary Period (or any extension thereof), you shall be entitled to participate in the Employer's group benefit plans generally available to its employees in accordance with the terms applicable for those plans. A copy of the Employer's current group health plan will be provided to the Employee after the completion of the Probationary Period.

Participation in these group benefits plans is mandatory and subject to the meeting the insurer's eligibility criteria. The Employee will be responsible for contributing a portion of the premium fees. The Employer reserves the right to discontinue and/or amend any group insurance benefit plan and to modify the co-payment schedule at any time and at its sole discretion and without further notice.

#### **10. Vacation**

The Employee is entitled to two weeks of paid vacation per year. Vacation time is to be scheduled with the approval of the Employer and scheduling is subject to business



requirements. Vacation pay will be provided to the Employee on the basis of base salary alone, except as may otherwise be required.

## 11. Termination

This Agreement can be terminated in any of the following circumstances:

a) Resignation: After the successful completion of the Probationary Period (and any extension thereof), the Employee may resign by giving the Employer not less than four (4) weeks' written notice. This notice period may be waived at the Employer's sole discretion without any further obligation on its behalf subject to statutory compliance.

c) Termination Without Cause: Following the Probationary Period (and any extension thereof), the Employer may terminate this Agreement by providing the Employee with his or her minimum entitlements with respect to termination notice and/or pay in lieu and statutory severance if applicable pursuant to the *Employment Standards Act, 2000* (as may be amended) and the Employee shall not be entitled to any other notice or payment in lieu of notice at law. The Employee agrees that the notice or payment in lieu of notice and, statutory severance if applicable, provided herein is in complete satisfaction of all contractual, statutory or common law entitlements.

In the event that the Employee's employment is terminated on a without cause basis, the Employee's participation in the Employer's group benefit plans will only continue for the statutory notice period and for no other period and the Employee shall have no claim for an extension thereof or any monies in lieu of same. In the event that the Employee's employment is terminated on a without cause basis, he/she will receive all commission earned on Commissionable Transactions not yet paid, including those that become firm during the statutory notice period.

d) Termination With Cause: The Employer may terminate this Agreement immediately for just cause as defined at law at any time without notice, pay in lieu of notice, severance pay, or other liability, other than commissions earned on Commissionable Transactions not yet paid but that become firm prior to the termination of the Employee's employment for cause. For the purposes of this Agreement, just cause includes, but is not limited to the following actions by the Employee:

- A material breach of this Agreement or the Employer's policies;
- Unacceptable performance standards;
- Theft, dishonesty or falsifying records, including providing false information as part of the application for employment;
- Intentional destruction, improper use or abuse of company property;
- Any form of actual or threatened violence;
- Obscene conduct;
- Harassment of co-workers, supervisors, managers, clients, or other individuals associated with the Employer;
- Insubordination or willful refusal to take directions;

- Repeated, unwarranted lateness, absenteeism or failure to report for work without authorization; or
- Personal conduct that prejudices the Employer's reputation, services or the morale of the workplace.

## **12. Non-Solicitation**

The Employee covenants and agrees that while engaged by the Employer and for a period of one (1) year following the termination of this Agreement, the Employee shall not directly or indirectly:

- a) Solicit, attempt to solicit, attempt to retain, induce, call upon or approach any employee, agent or independent contractor of the Employer to encourage any such individual to leave the employ or terminate its contractual relations of the Employer or its subsidiaries;
- b) Hire in any capacity any employee who was employed by the Employer or any agent or independent contractor used by the Employer, during the term of this Agreement; or
- c) Solicit, attempt to solicit, induce, call upon, approach or attempt to divert from the Employer any of the clients of the Employer with whom the Employee dealt or any prospective customers of the Employer with whom the Employee dealt before the termination of this Agreement, for the purpose of providing or offering to provide products or services that are competitive with the products or services provided by the Employer, without the prior approval of the Employer.

## **13. Monitoring**

The Employer reserves the right to monitor, record and/or search activity and communications on all electronic devices provided by the Employer to the Employee, including but not limited to computers, phones and PDAs. The Employee acknowledges that he does not have any right to or expectation of privacy with respect to same.

## **14. Confidential Information and Intellectual Property**

The Employee agrees to execute and abide by the Confidentiality and Intellectual Property Assignment Agreement attached to this Agreement as Schedule "A", which is incorporated into and forms an integral part of this Agreement.

## **15. Remedies and Duties**

The Employee agrees that all restrictions in Sections 12 and 14 are necessary and fundamental to the protection of the business of the Employer and that all such restrictions are reasonable and valid, and the Employee waives all defences to the strict enforcement thereof by the Employer.

The Employee acknowledges that a breach by the Employee of any of his obligations in Sections 12 or 14 will result in the Employer suffering irreparable harm, which cannot be calculated or fully or adequately compensated by recovery of damages alone. Accordingly, the Employee agrees that the Employer shall be entitled to interim and permanent injunctive relief without proof of actual damages, specific performance and other equitable remedies, in addition to any other relief to which the Employer may become entitled.

**16. Employer Property**

All items of any kind or nature created or used by the Employee in the course of his engagement, or otherwise furnished by the Employer, and all equipment, credit cards, computers, cellular phones, smart phones, data, books, records, reports, files, notes, manuals, literature, software, confidential information or any other materials belonging to the Employer or its clients in the Employee's possession or control, shall be surrendered to the Employer, in good condition, promptly upon the termination of this Agreement, irrespective of the time, manner or cause of termination. Without limiting the generality of the foregoing, the Employee shall provide to the Employer a complete list of all clients and prospective clients on which the Employee was working with and the status of the clients' and prospective clients' files. The Employee acknowledges and agrees that any clients or prospective clients introduced by the Employee to the Employer shall remain the Employer's clients.

**17. Other Obligations**

The Employee's obligations under this Agreement do not restrict any implied obligations that the Employee owes to the Employer at common law, in equity or otherwise.

**18. Personal Information**

The Employer collects, uses and discloses (to authorized parties) personal information as required for the purpose of administering the employment relationship, including but not limited to determining pension and benefits eligibility. The Employer may disclose this type of information to third parties who may be outside of the country, for these purposes. Personal information includes information about the Employee that is provided on an application form and resume, and during a job interview. It also includes information about the Employee's dependents, wage and benefits, performance reviews, information collected during investigations, and medical information in the case of illness or absence. By accepting employment with the Employer, the Employee is consenting to the collection, use and disclosure of such personal information for the purposes of administering the employment relationship, as may be required from time to time.

**19. Entire Agreement and Release of Claims**

This Agreement including the attached Schedule "A" contains the entire agreement between the parties hereto with respect to matters herein and supersedes and replaces all prior agreements and understandings, oral or written, between the Employee and the Employer relating to such matters.

The Employee confirms that he has no outstanding claims of any nature arising out of any prior agreements, arrangements and understandings, and in consideration of the payments contemplated by this Agreement, hereby releases the Employer and its affiliates, divisions, subsidiaries, predecessors, successors and assigns current and their respective former officers, directors, employees, agents, owners, advisors, administrators and insurers from any such claims.

**20. Assignment**

This Agreement for Services shall not be assignable by the Employee.

**21. Successors**

This Agreement shall ensure to the benefit of and be binding upon the Employee and the Employer and, in the case of the Employer, any other Employer or entity with which the Employer may be merged or otherwise combined or which may acquire the Employer or its assets in whole or in substantial part, and, in the case of the Employee, his estate or other legal representatives. Nothing herein expressed or implied is intended to confer on any person other than the parties hereto any rights, remedies, obligations or liabilities under or by reason of this Agreement.

**22. Applicable Law**

This Agreement shall be deemed a contract under, and for all purposes shall be governed by and construed in accordance with, the laws of the Province of Ontario without regard to the conflict of laws rules thereof. The Employer and the Employee hereby each irrevocably consent and attorney to the jurisdiction of the courts of the Province of Ontario with respect to any dispute or proceeding arising in connection with this Agreement.

**23. Provisions Surviving Termination**

Sections 11 (Termination), 12 (Non-Solicitation), 14 (Confidential Information and Intellectual Property), 15 (Remedies and Duties), 16 (Employer Property), 17 (Other Obligations), 22 (Applicable Law) and 23 (Provisions Surviving Termination) of this Agreement survive the cessation of this Agreement and the Employee's engagement for any reason whatsoever, and shall remain and continue in full force and effect unless and until the board of directors of the Employer in its absolute and sole discretion resolves otherwise and so notifies the Employee in writing.

**24. Severability**

In the event that any provision or portion of this Agreement shall be determined to be invalid or unenforceable for any reason, by a court of competent jurisdiction, the remaining provisions and portions of this Agreement shall be unaffected thereby and shall remain in full force and effect to the fullest extent permitted by law.

**25. Acknowledgement**

The Employer and the Employee acknowledge having read and understood this Agreement, having had the opportunity to obtain independent legal advice regarding this Agreement and having done so or refused to do so of their own volition.


**IN WITNESS WHEREOF** this Agreement has been executed by a duly authorized officer of the Employer and the Employee.

**THEREDPIN.COM REALTY INC.**

By: \_\_\_\_\_

Tarik Gidarny  
Broker of Record

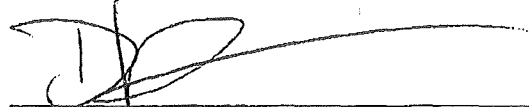
I have authority to bind the  
Corporation



---

**Witness Signature:**

**Kyle G Murdock**



---

**Employee Signature**

**Dennise Paccione**

**Schedule "A"**  
**Confidentiality and Intellectual Property Assignment Agreement**





## SALES REPRESENTATIVE INDEPENDENT CONTRACTOR'S AGREEMENT

THIS SALES REPRESENTATIVE INDEPENDENT CONTRACTOR'S AGREEMENT is made and entered into as of June 1<sup>st</sup> 2016.

Between:

**THEREDPIN.COM REALTY INC.**, a corporation incorporated under the federal laws of Canada  
(the "Company")

-and-

**Dennise Paccione**, an individual resident in the Province of Ontario

(the "Contractor")

### RECITALS

WHEREAS the Company has agreed to retain the Contractor to provide the Services described in Section 2 of this Agreement and the Contractor agrees to provide such Services to the Company in accordance with the terms and conditions contained herein;

NOW THEREFORE THIS AGREEMENT WITNESSES IN CONSIDERATION of the recitals and the mutual covenants contained herein and for other good and valuable consideration, the mutual receipt and legal sufficiency of which the parties acknowledge, the parties hereby agrees as follows:

#### 1. Engagement and Acceptance

On the terms and conditions herein stated, the Company hereby retains the Contractor to perform the Services for the Company and the Contractor hereby accepts its appointment to provide and carry out the Services to the Company.

#### 2. Scope of Services

- (a) The Contractor hereby agrees to provide the following services to the company ("the Services"):

Provide realtor services to the Company's clients and potential clients, including without limitation, assisting clients and potential clients search, tour, sell, and negotiate real estate transactions. Such services shall be provided in a timely manner and in accordance with best practices in the industry. The Contractor shall provide the Company with daily updates on all ongoing client matters and potential client leads using the applicable software (Salesforce) and solutions provided by the Company, in accordance with the Company's policies, rules and standards. The Contractor shall also engage in social networking in accordance with the Company's policies, rules and standards.

Office  
416.800.0812

Fax  
416.551.9599

Web  
TheRedPin.com

Address  
5 Church St, Toronto ON M5E 1M2





- (b) If the Contractor is requested by the Company to perform any other services in addition to the Services, the terms and conditions relating to such additional services will be outlined in a separate letter of agreement and negotiated separately and in good faith by the Company and the Contractor.
- (c) The Contractor shall comply with all laws and regulations applicable to the Company and the Contractor as well as rules and policies of the Company.
- (d) The Contractor may provide services to companies and entities other than the Company on the condition that such services do not conflict with or breach the Contractor's obligations to the Company, and provided that such services do not include acting as a real estate agent, and provided that the Contractor notifies the Company of such business endeavors.
- (e) The Contractor will attend all meetings and training seminars as instructed by the Broker of Record, VP of Sales or other Company representative.
- (f) The Company must approve any marketing, advertisement or solicitation for the purpose of branding or obtaining new clients to ensure brand and regulatory compliance. An individual profile page will be provided by the Company.
- (g) The Contractor shall comply with all laws and regulations applicable to the Company and the Contractor as well as rules and policies of the Company, including but not limited to any codes of ethics and business practices set out by law and/or regulation that apply to salespersons engaged in the trade of real estate.
- (h) The Contractor agrees to use their personal vehicle where required to perform the services and will at all times maintain a valid driver's licence and insurance coverage for their vehicle (with a coverage of no less than two million dollars in third party liability).
- (i) The Contractor is responsible to maintain an active RECO license and TREB membership in good standing. The Contractor agrees that he/she is responsible for ensuring that all dues and insurance payments are paid in full and up to date and any other transfer or termination fees prescribed by RECO and/or TREB.
- (j) The contractor agrees and acknowledges that all their licenses needed to trade in real estate including but not limited to RECO and TREB are in good standing, and that there are no pending, active, or previous claims made against you by any such boards or councils. You further acknowledge and agree that there are no pending claims against you by any previous brokerages that held your license. Should any of these claims be identified, TheRedPin, Brokerage reserves the right to terminate your contract and license with the brokerage without notice or recourse, and you will be responsible for any claims arising from any of the above parties.

### 3. Term

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This Agreement shall commence on **June 1<sup>st</sup> 2016** (the "**Commencement Date**") and shall continue in full force and effect unless terminated in accordance with Section 9 (the "**Term**")

#### **4. Definitions**

##### ***TheRedPin Clients:***

TheRedPin Clients are defined as those clients who have come through the Company's Web Site, the Company's other referral channels, clients assigned by the Company or who have been otherwise marketed to, referred by, or solicited by the other employees or agents or clients of the Company.

##### ***Contractors own Clients:***

The Contractors own Clients are defined as those clients who have not come through the Company's Web Site, the Company's other referral channels, clients assigned by the Company or who have not been otherwise marketed to, referred by, or solicited by the other employees or agents or clients of the Company.

##### ***Priority VIP Deals:***

Priority VIP Deals are defined as deals executed for purchases of new developments where the Company has or anticipates special access or pricing prior to the project being launched to the general public. These projects are indicated as Priority VIP Developments on the project page in Salesforce.

##### ***TRP Client Referrals:***

A client referred directly to the contractor by a TheRedPin client, who have not come through the Company's Web Site, the Company's other referral channels, clients assigned by the Company or who have not been otherwise marketed to, referred by, or solicited by the other employees or agents or clients of the Company.

##### ***VIP Salesperson:***

A contractor or employee working for the company who deals primarily in VIP, Priority and Preconstruction real estate sales. At the time of signing this includes Lina Brandao, Giovanni Marsico, Susan Toughloulan and Amit Muthreja. A list of these contractors and employees can be provided at any time upon request.

#### **5. Commission**

The Company will pay out the commissions listed in this section on all deals executed though the Company provided the Company receive a minimum of \$500 per executed deal to cover administration costs, unless otherwise indicated in this section. The Contractor agrees that the Company will receive the greater of \$500 or the Company portion of the listed commission split, unless otherwise indicated in this section. The Company shall issue commission cheques each Wednesday for deals closed where final payment was received the previous week. Pre-construction commissions will be paid in accordance with builder's payment schedule. Commissions payable in accordance with this section are based on the date the opportunity is assigned to the Contractor, net of rebate on all firm sales to TheRedPin Clients. In the event of a non-successful completion or adjustment of transaction, commissions will be adjusted accordingly.

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***Resale Purchases – TheRedPin Clients-Non VIP Deals***

The Contractor shall be entitled to earn the following commission on purchase deals excluding Priority VIP Deals executed with TheRedPin Clients:

35% to the Contractor and 65% to the Company provided the deal is executed within 30 days of the opportunity being assigned to the Contractor;

42.5% to the Contractor and 57.5% to the Company provided the deal is executed within 31 - 90 days of the opportunity being assigned to the Contractor; or

50% to the Contractor and 50% to the Company provided the deal is executed 91 or greater days after the opportunity being assigned to the Contractor.

All timelines are based on the later of the date the opportunity is assigned or the date the opportunity is re-assigned to the Contractor in Salesforce and the date of the executed Agreement of Purchase and Sale.

***Resale Purchases – TheRedPin Client Referrals-Non VIP Deals***

The Contractor shall be entitled to earn the following commission on purchase deals excluding Priority VIP Deals executed with TheRedPin Client Referrals:

50% to the Contractor and 50% to the Company;

***Resale Listings – TheRedPin Clients-Non VIP Deals***

The Contractor shall be entitled to earn the following commission on listing deals executed with TheRedPin Clients:

35% to the Contractor and 65% to the Company;

The Company's standard listing rate is 4.25% or 4.00% if the Client is both listing and purchasing with the Company. Any discounts on listing rates, allowances, or rebates greater than the standard 15% must be approved by the Broker of Record, or VP of sales prior to executing an agreement.

***Priority VIP Deals – PreConstruction Deals***

The Contractor shall be entitled to earn the following commission on all preconstruction deals executed with TheRedPin Clients or Personal Clients

25% to the Contractor and 75% to the Company;

**Priority VIP Deals executed by another TheRedPin sales representative-TheRedPin Clients**

For each VIP deal that you are involved with where the client relationship belongs to a non-VIP sales person the contractor shall be entitled to earn:

5% of the total commission paid to the company

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**Priority VIP Deals executed by another TheRedPin sales representative-Contractors Own Clients**

For each VIP deal that you are involved with where the client relationship belongs to a non-VIP sales person and the client is not a TheRedPin client, the contractor shall be entitled to earn:

\$500 flat fee to the contractor

***TheRedPin One Deals – TheRedPin Clients***

The Contractor shall be entitled to earn the following commission on deals that qualify for TheRedPin One program:

50% to the Contractor and 50% to the Company when the contractor successfully completes both the listing and purchase transaction.

***Resale Transactions – Contractors own Clients***

The Contractor shall be entitled to earn the following commission on resale purchase or listing transaction deals.

80% to the Contractor and 20% to The Company.

The Company's standard listing rate is 4.25% or 4.00% if the Client is both listing and purchasing with the Company. Any discounts on listing rates, allowances, or rebates greater than the standard 15% must be approved by the Broker of Record, or VP of sales prior to executing an agreement.

***Contractors Own Property***

The Contractor shall be entitled to earn the following commission on property owned by the Contractor or the Contractor's spouse:

1. 100% to the Contractor, net of \$500 Administration fee paid to the Company

***Leases***

The Contractor shall be entitled to earn the following commission on leases executed with the Contractor's own clients:

1. 80% to the Contractor and 20% to the Company, net of minimum \$250 administration fee paid to the Company on all executed leases

**6. Benefits**

Once the Contractor has been in the service of the Company for 3 consecutive months, the Contractor will be eligible to participate in the Company's group benefit plans, as generally available to its Contractors in accordance with the terms applicable for those plans. The

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contractor will have an open enrollment of 30 days immediately following the eligibility date to enroll without a medical questionnaire required. A copy of the Company's current group health plan will be provided upon eligibility.

Participation in these group benefits plans is mandatory and subject to the meeting the insurer's eligibility criteria. The Contractor is responsible for submitting an enrollment form upon eligibility. The Contractor may be responsible for contributing a portion of the premium fees. The Company reserves the right to discontinue and/or amend any group insurance benefit plan and to modify the co-payment schedule at any time and at its sole discretion and without further notice.

#### **7. Relationship of the Parties**

The Company and the Contractor specifically agree that the Contractor's relationship with the Company is that of an independent contractor. Nothing contained in this Agreement shall be regarded or construed as creating any relationship (Whether by way of employer/employee, agency, joint venture, association or partnership) between the parties other than as an independent contractor as set forth herein.

The Contractor shall calculate, withhold and remit all taxes and statutorily required payments including without limitation, all employment insurance contributions, Canada Pension Plan contributions, income tax, workers' compensation payments, employer health tax and any similar or other taxes, amounts or other expenses, in any applicable jurisdiction, owing as a result of the Contractor's receipt of any payments under this Agreement. Payments relating to any of the above shall be the sole responsibility of the Contractor and shall be forwarded by the Contractor as appropriate, directly to the government agencies involved. Proof of compliance with this requirement shall be available to the Company upon request.

It is understood that the Company does not hereby agree to, and is not bound to, exclusively use the Services of the Contractor.

The Contractor shall, except as specifically provided in this Agreement, provide necessary tools, materials and supplies and cover necessary expenses required to perform the Services. The Company shall provide adequate office space and ancillary office supplies required by the Contractor in connection with the provision of the Services. The Contractor shall be responsible for all taxes on monies paid by the Company to the Contractor.

#### **8. Claims Protection**

The Contractor hereby agrees to indemnify and hold the Company, any of its affiliates (including TheRedPin, Inc. and TheRedpin.com Mortgage Brokerage Inc.) or partners, harmless against any and all claims or actions taken against the Contractor from any previous employment or real estate dealings.

#### **9. Termination**

- (a) The Contractor may terminate this Agreement for any reason at any time provided that the Contractor gives the Company ten (10) days' prior written notice.

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- (b) The Company may terminate this Agreement for any reasons at any time, provided the Company gives the Contractor ten (10) days' prior written notice.
- (c) Either party may terminate this Agreement at any time, without prior written notice or any further obligations, if the other party fundamentally breaches this Agreement.

#### **10. Suspension of Services**

- (a) If the Company fails to pay the Contractor as required by this Agreement without due cause, the Contractor will be entitled to immediately suspend all activity relating to this Agreement upon delivery of written notice to that effect to the Company, and may pursue any other remedies which it may have at law or under this Agreement.
- (b) If any dispute arises between the Company and the Contractor with respect to the Contractor's performance of the Services or otherwise under this Agreement, the Contractor and the Company will attempt to resolve such dispute. If such a dispute arises, the Company will not be entitled to withhold timely payment under this Agreement pending resolution of such a dispute. If such payments are made on a timely basis or, if the parties then agree in writing that the payments may be made to an escrow account and are deposited into such an escrow account, the Contractor will not reduce or suspend the Services pending resolution of such a dispute.

#### **11. Non-Solicitation**

The Contractor covenants and agrees that while engaged by the Company and for a period of one year following the termination of this Agreement, the Contractor shall not directly or indirectly:

- (a) solicit, attempt to solicit, attempt to retain, induce, call upon or approach any employee, agent or independent contractor of the Company to encourage any such employee to leave the employ of the Company or its subsidiaries;
- (b) hire in any capacity any employee who was employed by the Company, or any agent or independent contractor used by the Company during the term of this Agreement;
- (c) solicit, attempt to solicit, attempt to retain, induce, call upon or approach or attempt to divert from the Company any of the TheRedPin Clients or prospective clients generated and introduced by the Company with whom the Contractor has dealt or any prospective customers or prospects generated and introduced by the Company with whom the Contractor has dealt before the termination of this Agreement, located anywhere where the Company carries on business in order to provide products or services that are competitive with the products or services provided by the Company, without the prior approval of the Company; or

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- (d) interfere or attempt to interfere in any way with Company's relationships with any of its suppliers, including without limitation, inducing or attempting to induce any supplier of the Company to change the terms of its dealings with the Company.

## **12. Confidential Information and Intellectual Property**

The Contractor agrees to execute and abide by the Confidentiality and Intellectual Property Assignment Agreement attached to this Agreement as Schedule "A", which is incorporated into and forms an integral part of this Agreement.

## **13. Remedies and Duties**

The Contractor agrees that all restrictions in Sections 11 and 12 are necessary and fundamental to the protection of the Business of the Company and that all such restrictions are reasonable and valid, and the Contractor waives all defences to the strict enforcement thereof by the Company.

The Contractor acknowledges that a breach by the Contractor of any of his obligations in Sections 11 or 12 will result in the Company suffering irreparable harm, which cannot be calculated or fully or adequately compensated by recovery of damages alone. Accordingly, the Contractor agrees that the Company shall be entitled to interim and permanent injunctive relief without proof of actual damages, specific performance and other equitable remedies, in addition to any other relief to which the Company may become entitled.

## **14. Company Property**

All items of any kind or nature created or used by the Contractor in the course of his engagement, or otherwise furnished by the Company, and all equipment, credit cards, computers, cellular phones, smart phones, data, books, records, reports, files, notes, manuals, literature, software, confidential information or any other materials belonging to the Company or its customers, or suppliers and in the Contractors' possession or control, shall be surrendered to the Company, in good condition, promptly upon the termination of this Agreement, irrespective of the time, manner or cause of termination. Without limiting the generality of the foregoing, the Contractor shall provide to the Company, a completely list of all clients and prospective clients on which the Contractor was working with and the status of the clients' and prospective clients' files.

## **15. Other Obligations**

The Contractor's obligations under this Agreement do not restrict any implied obligations that the Contractor owes to the Company at common law, in equity or otherwise.

## **16. Notices**

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Any notice, direction or other communication required or contemplated by any provision of this agreement (a "Notice") will be in writing and given by personal delivery, by registered mail, by electronic mail transmission, by overnight courier or by telecopier and address:

If to the Company:  
5 Church St  
Toronto, ON  
M5E 1M2

Attention: Chief Executive Officer  
Facsimile: 416-551-9599

If to the Contractor:  
Dennise Paccione  
803-127 Queen Street E.  
Toronto, ON  
M5C-1S3

Any notice:

- (a) Delivered before 4:30 p.m. local time on a Business Day will be deemed to have been received on the date of delivery and any Notice delivered after 4:30 p.m. local time on a Business Day or delivered on a day other than a Business Day, will be deemed to have been received on the next Business Day.
- (b) Mailed and will be deemed to have been received 72 hours after the date it is postmarked, provided that if the day on which the Notice is deemed to have been received is not a Business Day, then the Notice will be deemed to have been received on the next Business Day.
- (c) Sent by telecopier before 4:30 p.m. local time on a Business Day will be deemed to have been received when the sender receives the answer back confirming receipt by the recipient, provided that any telecopy received after 4:30 p.m. local time on a Business Day or received on a day other than Business Day will be deemed to have been received on the next Business Day.
- (d) Transmitted by electronic mail will be deemed to have been received upon the sender's receipt of acknowledgement from the intended recipient.
- (e) If the Party sending the Notice knows or might reasonably be expected to know that, at the time of sending or within 72 hours thereafter, normal mail service has been disrupted, then the Notice may only be sent (or re-sent) by delivery, overnight courier, electronic mail transmission or telecopier.
- (f) Any Party may change its address for service, its fax number, its e-mail address, the name of the individual to the attention of whom a Notice is to be sent or the person to whom a copy of the Notice is to be sent, by written notice given to the other Parties, in accordance with this Section 14.

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(g) For the purpose of this Agreement, "Business Day" means a day other than Saturday, Sunday or statutory holidays in Ontario;

#### **17. Entire Agreement and Release of Claims**

This Agreement including the attached Schedule "A" contains the entire agreement between the parties hereto with respect to matters herein and supersedes and replaces all prior agreements and understandings, oral or written, between the Contractor and the Company relating to such matters. The Contractor confirms that he has no outstanding claims of any nature arising out of any prior agreements, arrangements and understandings, and in consideration of the payments contemplated by Section 5 of this Agreement, hereby releases the Company and its affiliates, divisions, subsidiaries, predecessors, successors and assigns current and their respective former officers, directors, employees, agents, owners, advisors, administrators and insurers from any such claims.

#### **18. Currency**

Unless otherwise indicated, all dollar amounts in this Agreement are expressed in lawful dollars of Canada.

#### **19. Assignment**

This Agreement for Services shall not be assignable by the Contractor.

#### **20. Successors**

This Agreement shall endure to the benefit of and be binding upon the Contractor and the Company and, in the case of the Company, any other company or entity with which the Company may be merged or otherwise combined or which may acquire the Company or its assets in whole or in substantial part, and, in the case of the Contractor, his estate or other legal representatives. Nothing herein expressed or implied is intended to confer on any person other than the parties hereto any rights, remedies, obligations or liabilities under or by reason of this Agreement.

#### **21. Applicable Law**

This Agreement shall be deemed a contract under, and for all purposes shall be governed by and construed in accordance with, the laws of the Province of Ontario without regard to the conflict of laws rules thereof. The Company and the Contractor hereby each irrevocably consent and attorney to the jurisdiction of the courts of the Province of Ontario with respect to any dispute or proceeding arising in connection with this Agreement.

#### **22. Amendment, Modification or Waiver**

No provision of this Agreement may be amended or waived unless such amendment or waiver is authorized by the Company and is in writing signed by the Contractor and by a duly

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authorized officer of the Company. Except as otherwise specifically provided in this Agreement, no waiver by either party hereto of any breach by the other party of any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of a similar or dissimilar breach, condition or provision at the same time or at any prior or subsequent time.

### **23. Provisions Surviving Termination**

Sections 5 (Commission), 9 (Termination), 11 (Non-Solicitation), 12 (Confidential Information and Intellectual Property), 13 (Remedies and Duties), 14 (Company Property), 15 (Other Obligations), 21 (Applicable Law) and 23 (Provisions Surviving Termination) of this Agreement survive the cessation of this Agreement and the Contractor's engagement for any reason whatsoever, and shall remain and continue in full force and effect unless and until the board of directors of the Company in its absolute and sole discretion resolves otherwise and so notifies the Contractor in writing.

### **24. Severability**

In the event that any provision or portion of this Agreement shall be determined to be invalid or unenforceable for any reasons, by a court of competent jurisdiction, the remaining provisions and portions of this Agreement shall be unaffected thereby and shall remain in full force and effect to the fullest extent permitted by law.

### **25. Time of Essence**

Time shall be of the essence in this Agreement.

### **26. Counterparts**

This Agreement may be executed in counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

### **27. Captions**

Captions to the Sections of this Agreement are solely for convenient and no provision of this Agreement is to be construed by reference to the captions of that Section.

### **28. Acknowledgement**

The Company and the Contractor acknowledge having read and understood this Agreement, having had the opportunity to obtain independent legal advice regarding this Agreement and having done so or refused to do so of their own volition.

*[Remained of page intentionally left blank]*



IN WITNESS WHEREOF this Agreement has been executed by a duly authorized officer of the Company and the Contractor as of the day and year first above written.

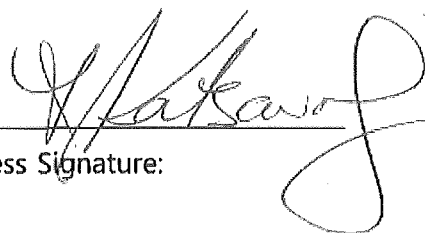
**THEREDPIN.COM REALTY INC**


By: 

Tarik Gidamy

Co-Founder and Broker of Record

I have authority to bind the Corporation

Witness Signature: 

Contractor Signature: 

Print Name: Tara Katsavos

Print Name: Dennise Paccione

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TheRedPin.com

Address  
5 Church St, Toronto ON M5E 1M2



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**SCHEDULE "A"**

**Confidentiality and Intellectual Property Assignment Agreement**

**Office**  
416.800.0812

**Fax**  
416.551.9599

**Web**  
TheRedPin.com

**Address**  
5 Church St, Toronto ON M5E 1M2



## SCHEDULE "A"

### CONFIDENTIALITY AND INTELLECTUAL PROPERTY ASSIGNMENT AGREEMENT

**THIS CONFIDENTIALITY AND INTELLECTUAL PROPERTY ASSIGNMENT AGREEMENT** (the "Agreement") made as of **Monday September 11<sup>th</sup> 2017** (the "Effective Date"),

**BETWEEN:**

**THEREDPIN.COM REALTY, INC.**, a corporation incorporated pursuant to the federal laws of Canada (the "Company")

- and -

**Dennise Paccione** an individual residing in the Province of Ontario (the "Contractor")

(individually each a "Party" and collectively the "Parties")

**WHEREAS** the Company and its wholly owned subsidiary, TheRedPin.com Realty Inc., carry on the business of online real estate search, brokerage and information services directly or as licensed to a third party, including without limitation, the use of internet enabled methods to generate leads for renting, buying and selling homes, and offering VIP access to pre-sale condominium units and other residential real estate (the "Business");

**AND WHEREAS** the Contractor has accepted the Independent Contractor's Agreement with the Company to provide services to the Company as **Sales Representative**, as provided in the Independent Contractor's Agreement dated February 1<sup>st</sup> 2017 and (the "**Independent Contractor's Agreement**") and the Contractor has agreed to the terms and conditions set out in the Independent Contractor's Agreement;

**AND WHEREAS** this Agreement provides additional responsibilities of the Contractor with respect to the assignment of intellectual property, waiver of moral rights, Confidential Information, and work product rights;

**NOW THEREFORE** in consideration of the mutual exchange of covenants and agreements set out in this Agreement and the Independent Contractor's Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the Parties, the Company and the Contractor covenant and agree as follows:

#### **1. Confidential Information**

1.1. "**Confidential Information**" means any and all confidential and/or proprietary knowledge, data or information (including written information and information which may be transmitted or received orally, visually or by any other means, including electronically) owned, developed or possessed by the Company or any of its representatives, direct and indirect subsidiaries, associates and affiliates, which relates to the Business, affairs, financial position, assets, and operations, including, without limitation, all reports, evaluations, notes, analyses, documents, engineering data, know-how, technology, trade secrets, financial data, business plans, personnel information, drawings, samples, devices, demonstrations, technical information, results of research, marketing, sales and distribution data, intellectual property, processes, procedures, designs, concepts, ideas, techniques,

customer lists and customer and potential customer related information, together with all analyses, evaluations, compilations, notes, studies or other documents (including such items of the foregoing that may be created, made, authored or conceived as part of, or incidental to, the Work and any and all duties, service and advice performed or provided by the Contractor to the Company, either alone or jointly with others, during the term of the Contractor by the Company, including any period prior to the date hereof), excluding:

- 1.1.1. information which is generally available to or known by the public;
- 1.1.2. information obtained by the Contractor from a source other than the Company, provided that such source was not bound by a duty of confidentiality to the Company; and
- 1.1.3. information that is already in the knowledge or possession of the Contractor (without restriction or obligation of confidentiality): (i) prior to disclosure by the Company to the Contractor.

1.2. The Contractor acknowledges and agrees that he holds a position of trust with the Company as an Contractor of the Company and that the Contractor shall maintain in the strictest of confidence all Confidential Information of the Company, its subsidiaries and affiliates, business partners, clients and customers, except the Contractor may disclose the Confidential Information solely:

- 1.2.1. where required by law but only after the Contractor has provided the Company with prior written notice of such compelled disclosure (to the extent legally permitted) and the Contractor shall provide reasonable assistance, at the Company's expense, if the Company wishes to contest the disclosure; or
- 1.2.2. with the prior written consent of the Company.

1.3. The Contractor acknowledges and agrees that such Confidential Information shall, for all purposes, be held by the Contractor in a fiduciary capacity and solely for the benefit of the Company or other third parties as the case may be. The Contractor agrees that he will not at any time use for his own purpose any of the said Confidential Information or disclose, divulge or communicate orally, in writing or otherwise, to any person or persons, any Confidential Information respecting the business or affairs of the Company or its subsidiaries and affiliates, business partners, clients and customers, unless the Contractor has the express prior written authorization of the Company to make disclosure or use of the Confidential Information.

1.4. The Contractor agrees that upon termination of the Contract with the Company, or upon request of the Company, the Contractor shall deliver promptly to the Company all Confidential Information, including all copies of Confidential Information, in the possession of the Contractor or under the control of the Contractor.

1.5. The Contractor agrees not to make reproductions or copies of any Confidential Information without express authorization of the Company. The Contractor further agrees that the Contractor shall at no time make any reproductions or copies of any Confidential Information for personal use, or for the use of any other third party without express prior written authorization of the Company.

1.6. As used in this Agreement, the term "Proprietary Information" means information or physical material not generally known or available outside the Company or information or physical material entrusted to the Company by any third party. This includes, but is not limited to, inventions (whether patentable or not), confidential knowledge, copyrights, product ideas, techniques, processes, formulas, object codes, biological materials or other intellectual property and any other information of any type relating to documentation, laboratory notebooks, data, schematics, algorithms, flow charts, mechanisms, research, manufacture, improvements, assembly, installation, marketing, forecasts, sales, pricing, customers, the salaries, duties, qualifications, performance levels and terms of compensation of other Contractors, and/or cost or other financial data concerning any of the foregoing of the Company, its subsidiaries and their operations. Proprietary Information may be contained in material such as drawings, samples, procedures, specifications, reports, studies, customer or supplier lists, budgets, cost or price lists, compilations or computer programs, or may be in the nature of unwritten knowledge or know-how.

1.7. The Contractor's performance of work on a variety of projects that relate to the Business (the "Work") and any other duties, service and advice performed or provided by the Contractor that relate to the Business, has not, and will not: (a) disclose to the Company, or induce the Company to use, any confidential or Proprietary Information or material belonging to any of the Contractor's previous employers, or any other third party; or (b) incorporate any confidential information or Proprietary Information that the Contractor has obtained from any third party, unless written authorization to use such confidential information or Proprietary Information is provided to the Contractor and the Company by the owner of the confidential information or Proprietary Information without cost to the Company, and all reasonable steps are taken in the Work to protect such confidential information or Proprietary Information from wrongful disclosure. The Contractor agrees not to enter into any written or oral agreement that conflicts with the provisions of this Agreement.

1.8. The Contractor shall not incorporate any open source software in Contractor's Work without the express prior written approval of the Company.

## **2. Intellectual Property**

2.1. The Contractor acknowledges and agrees that any and all inventions, copyrights, patents, industrial designs, trade secrets, works, marks, names, creations, processes, know-how, information, data, ideas and other intellectual property rights, as well as any modifications or improvement thereto or any other intellectual property arising from, created, made, authored or conceived as part of, or incidental to, the Work and any and all duties, service and advice performed or provided by the Contractor, either alone or jointly with others, during the term of the contract by the Company, including any period prior to the date hereof, are the property of the Company. The Contractor confirms that he has assigned and transferred and does hereby assign and transfer to the Company all rights, title and interest in and to any and all inventions, copyrights, patents, industrial designs, trade secrets, works, marks, names, creations, processes, know-how, information data, ideas and other intellectual property rights, as well as any modifications or improvements thereto or other intellectual property arising from, created, made, authored or conceived as part of, or incidental to, the performance of the Work and any and all duties, service and advice performed or provided by the Contractor either alone or jointly with others for the Company and its subsidiaries. The Contractor further irrevocably waives any moral rights in any copyright or other intellectual property right arising from, created, made, authored or conceived as part of, or incidental to, the performance of the Work and any and all duties,



service and advice performed or provided by the Contractor either alone or jointly with others for the Company and its subsidiaries, including any period prior to the date hereof.

2.2. The Contractor shall, during the term of the contract with the Company and after termination of the Contract with the Company, for any reason, provide the Company or its nominees with any assistance required to obtain, prosecute, and protect and maintain any intellectual property rights of the Company, including any intellectual property rights and modifications or improvements to any intellectual property rights, arising from, created, made, authored or conceived as part of, or incidental to, the performance of the Work and any and all duties, service and advice performed or provided by the Contractor either alone or jointly with others for the Company and its subsidiaries. Without limiting the foregoing, the Contractor hereby appoints the Company as his attorney in fact for the purposes of executing documents in the Contractor's name as may be necessary or desirable to carry out the purposes of Section 2.1 and this Section 2.2 of this Agreement.

2.3. The Contractor agrees to provide timely notice to the Company of any infringement, or potential infringement, of intellectual property rights of any third parties that may arise from, be created, made, authored or conceived as part of, or incidental to, the performance of the Work and any and all duties, service and advice performed or provided by the Contractor either alone or jointly with others for the Company and its subsidiaries upon the Contractor being aware of any such infringement or potential infringement.

2.4. The Contractor agrees to provide timely notice to the Company of any infringement, or potential infringement, of intellectual property rights of the Company upon the Contractor being aware of any such infringement or potential infringement.

### **3. Work Product Rights**

3.1. All work products of any kind or nature whatsoever, including, without limitation, software, notes, designs, and sketches, produced directly, or indirectly, by the Contractor either alone or jointly with others during the term of the contract by the Company related in any way to the Business, whether in the nature of Confidential Information or not (the "Work Products"), are the exclusive property of the Company, and the Contractor has no right, title or interest thereto or to any patent, copyright, trademark, trade secret, or other intellectual property rights in the Work Products. For certainty, the Contractor confirms that the Contractor has hereby assigned and transferred and does hereby assign and transfer to the Company all rights, title and interest in and to the Work Products. The Contractor further irrevocably waives any rights (including moral rights) which the Contractor may have to the Work Products.

3.2. The Contractor will keep written records of the Work Products and make such written records available to the Company at its request.

3.3. The Contractor shall, during the term of the contract with the Company and after the termination of the Contract with the Company, for any reason, provide the Company or its nominees with any assistance required to give the Company full protection of its ownership rights in the Work Products. Without limiting the foregoing, the Contractor hereby appoints the Company as his attorney in fact for the purposes of executing documents in the Contractor's name as may be necessary or desirable to carry out the purposes of Section 3.1 and this Section 3.2 of this Agreement.

#### **4. Remedies and Defences**

4.1. The Contractor agrees that all its obligations and restrictions set out in Sections 1, 2 and 3 are necessary and fundamental to the protection of the Business of the Company and that all such obligations and restrictions are reasonable and valid, and the Contractor waives all defences to the strict enforcement thereof by the Company.

4.2. The Contractor acknowledges that a breach by the Contractor of any of his or her obligations and restrictions set out in Sections 1, 2 and 3 will result in the Company suffering irreparable harm, which cannot be calculated or fully or adequately compensated by recovery of damages alone. Accordingly, the Contractor agrees that the Company shall be entitled to interim and permanent injunctive relief without proof of actual damages, specific performance and other equitable remedies, in addition to any other relief to which the Company may become entitled.

4.3. The Contractor acknowledges that the obligations and restrictions set out in Sections 1, 2 and 3 are in addition to any obligations that the Contractor may now or hereafter owe to the Company at law, in equity or otherwise. Nothing contained in this Agreement is a waiver, release or reduction of any fiduciary obligations that the Contractor owes to the Company.

#### **5. Notices**

5.1. Any notice required or permitted to be given under this Agreement shall be sufficient if in writing and either delivered personally or sent by facsimile, with delivery confirmed to the following addresses:

For the Company:     TheRedPin, Inc.  
                              5 Church St.  
                              Toronto, ON M5E 1M2

For the Contractor:   Dennise Paccione  
                              803-127 Queen Street E.  
                              Toronto, ON. M5C1S3

5.2. In the event that either Party changes its address, such Party shall so notify the other Party immediately, in writing.

#### **6. Entire Agreement**

This Agreement and the related policies and procedures of the Company, as amended, contain the entire Agreement between the Company and the Contractor with respect to the terms and conditions of assignment of intellectual property, waiver of moral rights, Confidential Information, and work product rights, and this Agreement and the related policies and procedures of the Company supersede all previous negotiations, understandings and agreements, whether verbal or written, with respect to the terms and conditions of assignment of intellectual property, waiver of moral rights, Confidential Information, and work product rights, as between the Parties. The Parties agree that this Agreement may only be amended by written modification signed by both Parties.

## **7. Term of Agreement**

The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect until explicitly terminated by the Company in writing.

## **8. Laws**

This Agreement is governed by and will be construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

## **9. Successors and Assigns**

This Agreement shall not be assignable by the Contractor unless the written consent of the Company has been obtained (such consent may be arbitrarily withheld without giving reason). This Agreement shall enure to the benefit of and be binding upon the Parties hereto, their heirs, executors, administrators, successors and permitted assigns, as may be the case.

## **10. Further Acts and Assurances**

The Parties agree that they shall, from time to time, do all such further acts and execute and deliver all such further documents and assurances as shall be reasonably required in order to fully perform and carry out this Agreement.

## **11. Non-Waiver of Rights**

The Parties understand and agree that no failure by the other Party to exercise any of that Party's rights, powers or privileges pursuant to this Agreement shall operate as a waiver of the said rights, powers or privileges, nor shall any single or partial exercise of any right, power or privilege under this Agreement preclude such Party from further exercising any right, power or privilege pursuant to this Agreement.

## **12. Recitals**

The recitals at the beginning of this Agreement shall constitute part of and are terms of this Agreement.

## **13. Binding Effect of Agreement**

The above described terms and conditions are acceptable to the Contractor, and the Contractor has indicated his or her agreement in the designated space of the copy provided, having it duly witnessed and sealed. The Contractor understands that by executing this Agreement, he or she agrees to be bound by its terms and conditions and the Contractor is signing this Agreement freely and voluntarily having had an opportunity to review, understand and seek independent legal advice as to the meaning and effect of the above provisions.

## **14. Severability**

If any provision of this Agreement is or becomes illegal or unenforceable, then it is to be considered separate and severable from this Agreement and the remaining provisions of

this Agreement remain in force and are binding upon the parties as if the offending provision had never been included.


**15. Counterparts**

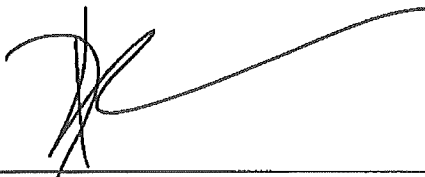
This Agreement may be executed in counterparts, each of which will be deemed to be an original and all of which together will be deemed to be one and the same instrument. Execution and delivery of this Agreement may be evidenced by facsimile transmission to the other party.

*- Signatures contained on next page -*

IN WITNESS WHEREOF Parties have indicated their agreement, by the signature of a duly appointed Officer of the Company, and by the signature of the Contractor, as of the Effective Date.

**THEREDPIN.COM REALTY, INC.**

Per:   
\_\_\_\_\_  
Kyle Murdock  
Vice President of Sales

  
\_\_\_\_\_  
Contractor: Dennise Paccione

Thurs Aug 10th 2017  
\_\_\_\_\_  
Date:

  
\_\_\_\_\_  
Witness: Tara Katsavos

  
\_\_\_\_\_  
Date:





## SALES REPRESENTATIVE INDEPENDENT CONTRACTOR'S AGREEMENT

THIS SALES REPRESENTATIVE INDEPENDENT CONTRACTOR'S AGREEMENT is made and entered into as of February 1<sup>st</sup> 2017.

Between:

**THEREDPIN.COM REALTY INC.**, a corporation incorporated under the federal laws of Canada  
(the "**Company**")

-and-

**Dennise Paccione**, an individual resident in the Province of Ontario  
(the "**Contractor**")

### RECITALS

WHEREAS the Company has agreed to retain the Contractor to provide the Services described in Section 2 of this Agreement and the Contractor agrees to provide such Services to the Company in accordance with the terms and conditions contained herein;

NOW THEREFORE THIS AGREEMENT WITNESSES IN CONSIDERATION of the recitals and the mutual covenants contained herein and for other good and valuable consideration, the mutual receipt and legal sufficiency of which the parties acknowledge, the parties hereby agrees as follows:

#### 1. Engagement and Acceptance

On the terms and conditions herein stated, the Company hereby retains the Contractor to perform the Services for the Company and the Contractor hereby accepts its appointment to provide and carry out the Services to the Company.

#### 2. Scope of Services

- (a) The Contractor hereby agrees to provide the following services to the company ("the Services"):

Provide realtor services to the Company's clients and potential clients, including without limitation, assisting clients and potential clients search, tour, sell, and negotiate real estate transactions. Such services shall be provided in a timely manner and in accordance with best practices in the industry. The Contractor shall provide the Company with daily updates on all ongoing client matters and potential client leads using the applicable software (Salesforce) and solutions provided by the Company, in accordance with the Company's policies, rules and standards. The Contractor shall also engage in social networking in accordance with the Company's policies, rules and standards.

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TheRedPin.com

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5 Church St, Toronto ON M5E 1M2



- (b) If the Contractor is requested by the Company to perform any other services in addition to the Services, the terms and conditions relating to such additional services will be outlined in a separate letter of agreement and negotiated separately and in good faith by the Company and the Contractor.
- (c) The Contractor shall comply with all laws and regulations applicable to the Company and the Contractor as well as rules and policies of the Company.
- (d) The Contractor may provide services to companies and entities other than the Company on the condition that such services do not conflict with or breach the Contractor's obligations to the Company, and provided that such services do not include acting as a real estate agent, and provided that the Contractor notifies the Company of such business endeavors.
- (e) The Contractor will attend all meetings and training seminars as instructed by the Broker of Record, VP of Sales or other Company representative.
- (f) The Company must approve any marketing, advertisement or solicitation for the purpose of branding or obtaining new clients to ensure brand and regulatory compliance. An individual profile page will be provided by the Company.
- (g) The Contractor shall comply with all laws and regulations applicable to the Company and the Contractor as well as rules and policies of the Company, including but not limited to any codes of ethics and business practices set out by law and/or regulation that apply to salespersons engaged in the trade of real estate.
- (h) The Contractor agrees to use their personal vehicle where required to perform the services and will at all times maintain a valid driver's licence and insurance coverage for their vehicle (with a coverage of no less than two million dollars in third party liability).
- (i) The Contractor is responsible to maintain an active RECO license and TREB membership in good standing. The Contractor agrees that he/she is responsible for ensuring that all dues and insurance payments are paid in full and up to date and any other transfer or termination fees prescribed by RECO and/or TREB.
- (j) The contractor agrees and acknowledges that all their licenses needed to trade in real estate including but not limited to RECO and TREB are in good standing, and that there are no pending, active, or previous claims made against you by any such boards or councils. You further acknowledge and agree that there are no pending claims against you by any previous brokerages that held your license. Should any of these claims be identified, TheRedPin, Brokerage reserves the right to terminate your contract and license with the brokerage without notice or recourse, and you will be responsible for any claims arising from any of the above parties.

### 3. Term

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This Agreement shall commence on **February 1<sup>st</sup> 2017** (the "**Commencement Date**") and shall continue in full force and effect unless terminated in accordance with Section 9 (the "**Term**")

#### **4. Definitions**

##### ***TheRedPin Clients:***

TheRedPin Clients are defined as those clients who have come through the Company's Web Site, the Company's other referral channels, clients assigned by the Company or who have been otherwise marketed to, referred by, or solicited by the other employees or agents or clients of the Company.

##### ***Contractors own Clients:***

The Contractors own Clients are defined as those clients who have not come through the Company's Web Site, the Company's other referral channels, clients assigned by the Company or who have not been otherwise marketed to, referred by, or solicited by the other employees or agents or clients of the Company.

##### ***Priority VIP Deals:***

Priority VIP Deals are defined as deals executed for purchases of new developments where the Company has or anticipates special access or pricing prior to the project being launched to the general public. These projects are indicated as Priority VIP Developments on the project page in Salesforce.

##### ***TRP Client Referrals:***

A client referred directly to the contractor by a TheRedPin client, who have not come through the Company's Web Site, the Company's other referral channels, clients assigned by the Company or who have not been otherwise marketed to, referred by, or solicited by the other employees or agents or clients of the Company.

##### ***VIP Salesperson:***

A contractor or employee working for the company who deals primarily in VIP, Priority and Preconstruction real estate sales. At the time of signing this includes Lina Brandao, Giovanni Marsico, Susan Toughloulan and Amit Muthreja. A list of these contractors and employees can be provided at any time upon request.

#### **5. Commission**

The Company will pay out the commissions listed in this section on all deals executed through the Company provided the Company receive a minimum of \$500 per executed deal to cover administration costs, unless otherwise indicated in this section. The Contractor agrees that the Company will receive the greater of \$500 or the Company portion of the listed commission split, unless otherwise indicated in this section. The Company shall issue commission cheques each Wednesday for deals closed where final payment was received the previous week. Pre-construction commissions will be paid in accordance with builder's payment schedule. Commissions payable in accordance with this section are based on the date the opportunity is assigned to the Contractor, net of rebate on all firm sales to TheRedPin Clients. In the event of a non-successful completion or adjustment of transaction, commissions will be adjusted accordingly.

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**Resale Purchases – TheRedPin Clients-Non VIP Deals**

The Contractor shall be entitled to earn the following commission on purchase deals excluding Priority VIP Deals executed with TheRedPin Clients:

35% to the Contractor and 65% to the Company provided the deal is executed within 30 days of the opportunity being assigned to the Contractor;

42.5% to the Contractor and 57.5% to the Company provided the deal is executed within 31 - 90 days of the opportunity being assigned to the Contractor; or

50% to the Contractor and 50% to the Company provided the deal is executed 91 or greater days after the opportunity being assigned to the Contractor.

All timelines are based on the later of the date the opportunity is assigned or the date the opportunity is re-assigned to the Contractor in Salesforce and the date of the executed Agreement of Purchase and Sale.

**Resale Purchases – TheRedPin Client Referrals-Non VIP Deals**

The Contractor shall be entitled to earn the following commission on purchase deals excluding Priority VIP Deals executed with TheRedPin Client Referrals:

50% to the Contractor and 50% to the Company;

**Resale Listings – TheRedPin Clients-Non VIP Deals**

The Contractor shall be entitled to earn the following commission on listing deals executed with TheRedPin Clients:

35% to the Contractor and 65% to the Company;

The Company's standard listing rate is 4.25% or 4.00% if the Client is both listing and purchasing with the Company. Any discounts on listing rates, allowances, or rebates greater than the standard 15% must be approved through contacting the Broker of Record at [tarik@theredpin.com](mailto:tarik@theredpin.com) or VP of sales at [kyle@theredpin.com](mailto:kyle@theredpin.com) prior to executing an agreement.

**Priority VIP Deals – PreConstruction Deals**

The Contractor shall be entitled to earn the following commission on all preconstruction deals executed with TheRedPin Clients or Personal Clients

35% to the Contractor and 65% to the Company;

**Priority VIP Deals executed by another TheRedPin sales representative-TheRedPin Clients**

For each VIP deal that you are involved with where the client relationship belongs to a non-VIP sales person the contractor shall be entitled to earn:

5% of the total commission paid to the company

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**Priority VIP Deals executed by another TheRedPin sales representative-Contractors Own Clients**

For each VIP deal that you are involved with where the client relationship belongs to a non-VIP sales person and the client is not a TheRedPin client, the contractor shall be entitled to earn:

\$500 flat fee to the contractor

***TheRedPin One Deals – TheRedPin Clients***

The Contractor shall be entitled to earn the following commission on deals that qualify for TheRedPin One program:

50% to the Contractor and 50% to the Company when the contractor successfully completes both the listing and purchase transaction.

***Resale Transactions – Contractors own Clients***

The Contractor shall be entitled to earn the following commission on resale purchase or listing transaction deals.

80% to the Contractor and 20% to The Company.

The Company's standard listing rate is 4.25% or 4.00% if the Client is both listing and purchasing with the Company. Any discounts on listing rates, allowances, or rebates greater than the standard 15% must be approved by the Broker of Record, or VP of sales prior to executing an agreement.

***Contractors Own Property***

The Contractor shall be entitled to earn the following commission on property owned by the Contractor or the Contractor's spouse:

1. 100% to the Contractor, net of \$500 Administration fee paid to the Company

***Leases***

The Contractor shall be entitled to earn the following commission on leases executed with the Contractor's own clients:

1. 80% to the Contractor and 20% to the Company, net of minimum \$250 administration fee paid to the Company on all executed leases

**6. Benefits**

Once the Contractor has been in the service of the Company for 3 consecutive months, the Contractor will be eligible to participate in the Company's group benefit plans, as generally available to its Contractors in accordance with the terms applicable for those plans. The

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contractor will have an open enrollment of 30 days immediately following the eligibility date to enroll without a medical questionnaire required. A copy of the Company's current group health plan will be provided upon eligibility.

Participation in these group benefits plans is mandatory and subject to the meeting the insurer's eligibility criteria. The Contractor is responsible for submitting an enrollment form upon eligibility. The Contractor may be responsible for contributing a portion of the premium fees. The Company reserves the right to discontinue and/or amend any group insurance benefit plan and to modify the co-payment schedule at any time and at its sole discretion and without further notice.

#### **7. Relationship of the Parties**

The Company and the Contractor specifically agree that the Contractor's relationship with the Company is that of an independent contract. Nothing contained in this Agreement shall be regarded or construed as creating any relationship (Whether by way of employer/employee, agency, joint venture, association or partnership) between the parties other than as an independent contractor as set forth herein.

The Contractor shall calculate, withhold and remit all taxes and statutorily required payments including without limitation, all employment insurance contributions, Canada Pension Plan contributions, income tax, workers' compensation payments, employer health tax and any similar or other taxes, amounts or other expenses, in any applicable jurisdiction, owing as a result of the Contractor's receipt of any payments under this Agreement. Payments relating to any of the above shall be the sole responsibility of the Contractor and shall be forwarded by the Contractor as appropriate, directly to the government agencies involved. Proof of compliance with this requirement shall be available to the Company upon request.

It is understood that the Company does not hereby agree to, and is not bound to, exclusively use the Services of the Contractor.

The Contractor shall, except as specifically provided in this Agreement, provide necessary tools, materials and supplies and cover necessary expenses required to perform the Services. The Company shall provide adequate office space and ancillary office supplies required by the Contractor in connection with the provision of the Services. The Contractor shall be responsible for all taxes on monies paid by the Company to the Contractor.

#### **8. Claims Protection**

The Contractor hereby agrees to indemnify and hold the Company, any of its affiliates (including TheRedPin, Inc. and TheRedpin.com Mortgage Brokerage Inc.) or partners, harmless against any and all claims or actions taken against the Contractor from any previous employment or real estate dealings.

#### **9. Termination**

- (a) The Contractor may terminate this Agreement for any reason at any time provided that the Contractor gives the Company ten (10) days' prior written notice.

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- (b) The Company may terminate this Agreement for any reasons at any time, provided the Company gives the Contractor ten (10) days' prior written notice.
- (c) Either party may terminate this Agreement at any time, without prior written notice or any further obligations, if the other party fundamentally breaches this Agreement.

#### **10. Suspension of Services**

- (a) If the Company fails to pay the Contractor as required by this Agreement without due cause, the Contractor will be entitled to immediately suspend all activity relating to this Agreement upon delivery of written notice to that effect to the Company, and may pursue any other remedies which it may have at law or under this Agreement.
- (b) If any dispute arises between the Company and the Contractor with respect to the Contractor's performance of the Services or otherwise under this Agreement, the Contractor and the Company will attempt to resolve such dispute. If such a dispute arises, the Company will not be entitled to withhold timely payment under this Agreement pending resolution of such a dispute. If such payments are made on a timely basis or, if the parties then agree in writing that the payments may be made to an escrow account and are deposited into such an escrow account, the Contractor will not reduce or suspend the Services pending resolution of such a dispute.

#### **11. Non-Solicitation**

The Contractor covenants and agrees that while engaged by the Company and for a period of one year following the termination of this Agreement, the Contractor shall not directly or indirectly:

- (a) solicit, attempt to solicit, attempt to retain, induce, call upon or approach any employee, agent or independent contractor of the Company to encourage any such employee to leave the employ of the Company or its subsidiaries;
- (b) hire in any capacity any employee who was employed by the Company, or any agent or independent contractor used by the Company during the term of this Agreement;
- (c) solicit, attempt to solicit, attempt to retain, induce, call upon or approach or attempt to divert from the Company any of the TheRedPin Clients or prospective clients generated and introduced by the Company with whom the Contractor has dealt or any prospective customers or prospects generated and introduced by the Company with whom the Contractor has dealt before the termination of this Agreement, located anywhere where the Company carries on business in order to provide products or services that are competitive with the products or services provided by the Company, without the prior approval of the Company; or

Office  
416.800.0812

Fax  
416.551.9599

Web  
TheRedPin.com

Address  
5 Church St, Toronto ON M5E 1M2



- (d) interfere or attempt to interfere in any way with Company's relationships with any of its suppliers, including without limitation, inducing or attempting to induce any supplier of the Company to change the terms of its dealings with the Company.

## **12. Confidential Information and Intellectual Property**

The Contractor agrees to execute and abide by the Confidentiality and Intellectual Property Assignment Agreement attached to this Agreement as Schedule "A", which is incorporated into and forms an integral part of this Agreement.

## **13. Remedies and Duties**

The Contractor agrees that all restrictions in Sections 11 and 12 are necessary and fundamental to the protection of the Business of the Company and that all such restrictions are reasonable and valid, and the Contractor waives all defences to the strict enforcement thereof by the Company.

The Contractor acknowledges that a breach by the Contractor of any of his obligations in Sections 11 or 12 will result in the Company suffering irreparable harm, which cannot be calculated or fully or adequately compensated by recovery of damages alone. Accordingly, the Contractor agrees that the Company shall be entitled to interim and permanent injunctive relief without proof of actual damages, specific performance and other equitable remedies, in addition to any other relief to which the Company may become entitled.

## **14. Company Property**

All items of any kind or nature created or used by the Contractor in the course of his engagement, or otherwise furnished by the Company, and all equipment, credit cards, computers, cellular phones, smart phones, data, books, records, reports, files, notes, manuals, literature, software, confidential information or any other materials belonging to the Company or its customers, or suppliers and in the Contractors' possession or control, shall be surrendered to the Company, in good condition, promptly upon the termination of this Agreement, irrespective of the time, manner or cause of termination. Without limiting the generality of the foregoing, the Contractor shall provide to the Company, a completely list of all clients and prospective clients on which the Contractor was working with and the status of the clients' and prospective clients' files.

## **15. Other Obligations**

The Contractor's obligations under this Agreement do not restrict any implied obligations that the Contractor owes to the Company at common law, in equity or otherwise.

## **16. Notices**

Office	Fax	Web	Address
416.800.0812	416.551.9599	TheRedPin.com	5 Church St, Toronto ON M5E 1M2



Any notice, direction or other communication required or contemplated by any provision of this agreement (a "Notice") will be in writing and given by personal delivery, by registered mail, by electronic mail transmission, by overnight courier or by telecopier and address:

If to the Company:  
5 Church St  
Toronto, ON  
M5E 1M2

Attention: Chief Executive Officer  
Facsimile: 416-551-9599

If to the Contractor:  
Dennise Paccione  
803-127 Queen Street E.  
Toronto, ON. M5C-1S3

Any notice:

- (a) Delivered before 4:30 p.m. local time on a Business Day will be deemed to have been received on the date of delivery and any Notice delivered after 4:30 p.m. local time on a Business Day or delivered on a day other than a Business Day, will be deemed to have been received on the next Business Day.
- (b) Mailed and will be deemed to have been received 72 hours after the date it is postmarked, provided that if the day on which the Notice is deemed to have been received is not a Business Day, then the Notice will be deemed to have been received on the next Business Day.
- (c) Sent by telecopier before 4:30 p.m. local time on a Business Day will be deemed to have been received when the sender receives the answer back confirming receipt by the recipient, provided that any telecopy received after 4:30 p.m. local time on a Business Day or received on a day other than Business Day will be deemed to have been received on the next Business Day.
- (d) Transmitted by electronic mail will be deemed to have been received upon the sender's receipt of acknowledgement from the intended recipient.
- (e) If the Party sending the Notice knows or might reasonably be expected to know that, at the time of sending or within 72 hours thereafter, normal mail service has been disrupted, then the Notice may only be sent (or re-sent) by delivery, overnight courier, electronic mail transmission or telecopier.
- (f) Any Party may change its address for service, its fax number, its e-mail address, the name of the individual to the attention of whom a Notice is to be sent or the person to whom a copy of the Notice is to be sent, by written notice given to the other Parties, in accordance with this Section 14.

Office	Fax	Web	Address
416.800.0812	416.551.9599	TheRedPin.com	5 Church St, Toronto ON M5E 1M2



(g) For the purpose of this Agreement, "**Business Day**" means a day other than Saturday, Sunday or statutory holidays in Ontario;

#### **17. Entire Agreement and Release of Claims**

This Agreement including the attached Schedule "A" contains the entire agreement between the parties hereto with respect to matters herein and supersedes and replaces all prior agreements and understandings, oral or written, between the Contractor and the Company relating to such matters. The Contractor confirms that he has no outstanding claims of any nature arising out of any prior agreements, arrangements and understandings, and in consideration of the payments contemplated by Section 5 of this Agreement, hereby releases the Company and its affiliates, divisions, subsidiaries, predecessors, successors and assigns current and their respective former officers, directors, employees, agents, owners, advisors, administrators and insurers from any such claims.

#### **18. Currency**

Unless otherwise indicated, all dollar amounts in this Agreement are expressed in lawful dollars of Canada.

#### **19. Assignment**

This Agreement for Services shall not be assignable by the Contractor.

#### **20. Successors**

This Agreement shall endure to the benefit of and be binding upon the Contractor and the Company and, in the case of the Company, any other company or entity with which the Company may be merged or otherwise combined or which may acquire the Company or its assets in whole or in substantial part, and, in the case of the Contractor, his estate or other legal representatives. Nothing herein expressed or implied is intended to confer on any person other than the parties hereto any rights, remedies, obligations or liabilities under or by reason of this Agreement.

#### **21. Applicable Law**

This Agreement shall be deemed a contract under, and for all purposes shall be governed by and construed in accordance with, the laws of the Province of Ontario without regard to the conflict of laws rules thereof. The Company and the Contractor hereby each irrevocably consent and attorney to the jurisdiction of the courts of the Province of Ontario with respect to any dispute or proceeding arising in connection with this Agreement.

#### **22. Amendment, Modification or Waiver**

No provision of this Agreement may be amended or waived unless such amendment or waiver is authorized by the Company and is in writing signed by the Contractor and by a duly authorized officer of the Company. Except as otherwise specifically provided in this Agreement,

Office	Fax	Web	Address
416.800.0812	416.551.9599	TheRedPin.com	5 Church St, Toronto ON M5E 1M2





no waiver by either party hereto of any breach by the other party of any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of a similar or dissimilar breach, condition or provision at the same time or at any prior or subsequent time.

### **23. Provisions Surviving Termination**

Sections 5 (Commission), 9 (Termination), 11 (Non-Solicitation), 12 (Confidential Information and Intellectual Property), 13 (Remedies and Duties), 14 (Company Property), 15 (Other Obligations), 21 (Applicable Law) and 23 (Provisions Surviving Termination) of this Agreement survive the cessation of this Agreement and the Contractor's engagement for any reason whatsoever, and shall remain and continue in full force and effect unless and until the board of directors of the Company in its absolute and sole discretion resolves otherwise and so notifies the Contractor in writing.

### **24. Severability**

In the event that any provision or portion of this Agreement shall be determined to be invalid or unenforceable for any reasons, by a court of competent jurisdiction, the remaining provisions and portions of this Agreement shall be unaffected thereby and shall remain in full force and effect to the fullest extent permitted by law.

### **25. Time of Essence**

Time shall be of the essence in this Agreement.

### **26. Counterparts**

This Agreement may be executed in counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

### **27. Captions**

Captions to the Sections of this Agreement are solely for convenient and no provision of this Agreement is to be construed by reference to the captions of that Section.

### **28. Acknowledgement**

The Company and the Contractor acknowledge having read and understood this Agreement, having had the opportunity to obtain independent legal advice regarding this Agreement and having done so or refused to do so of their own volition.

Office  
416.800.0812

Fax  
416.551.9599

Web  
TheRedPin.com

Address  
5 Church St, Toronto ON M5E 1M2



IN WITNESS WHEREOF this Agreement has been executed by a duly authorized officer of the Company and the Contractor as of the day and year first above written.

THEREDPIN.COM REALTY INC

By:

Tarik Gidamy

Co-Founder and Broker of Record

I have authority to bind the Corporation

  
\_\_\_\_\_  
Witness Signature:  
\_\_\_\_\_  
Contractor Signature:

Print Name: Tara Katsavos

Print Name: Dennise Paccione

Office  
416.800.0812

Fax  
416.551.9599

Web  
TheRedPin.com

Address  
5 Church St, Toronto ON M5E 1M2



April 16, 2015

Tarik H. Gidamy  
TheRedPin, Inc.  
5 Church Street  
Toronto, ON  
M5E 1M2

Dear Tarik:

As you know, the shareholders of TheRedPin, Inc. (the "**Company**") are currently in negotiations with Trilogy Growth Fund LP for the prospective subscription for Series B-2 Preferred Shares of the Company (the "**Transaction**"). It is a condition of the Transaction that certain key executives, including you, enter into second amended and restated employment agreements with the Company whereby your salary and annual bonus will be reduced. In consideration for the foregoing, including the reduction of salary and bonus, you will be granted an additional 8,461 options exercisable into common shares of the Company, pursuant to an option agreement dated as of the date hereof. We are pleased to offer you continued employment with the Company on the following terms and conditions, conditional upon and effective as of the date of closing of the Transaction:

1. **Office.** You will continue to be employed by the Company in the position of Chief Sales Officer, reporting to the Company's Chief Executive Officer. As Chief Sales Officer, you will have all of the usual authority, duties and responsibilities attached to that position, as may be amended by the Company's board of directors (the "**Board**") from time to time (acting reasonably and in good faith, and subject to the terms and conditions of this Agreement) to meet changing business and operational needs.
2. **Term.** Your employment with the Company under the terms of this offer will commence upon closing of the Transaction on April 16, 2015, and shall continue on an indefinite basis subject to the termination provisions below.
3. **Service.** You will serve the Company faithfully, honestly, diligently and to the best of your abilities. Throughout your term of employment, you will devote your full working time and attention to the business and affairs of the Company and will not be engaged in other employment. Nothing herein will preclude you from representing other enterprises in a board or advisory capacity if such activity does not restrict or impair the performance of your obligations to the Company. You will comply with all of the Company's policies and regulations as may be implemented or amended by the Company from time to time.
4. **Base Salary.** Effective as of April 1, 2015, you will be paid a base salary of CDN\$120,000 per annum, less applicable deductions and withholdings, payable in monthly installments (or as otherwise agreed by the parties), or at other such times as you and the Company may agree. Compensation shall be reviewed annually by the Board.

5. **Bonus.** You will be paid an annual incentive bonus of CDN\$100,000 per annum, payable in monthly installments (or as otherwise agreed by the parties), or at other such times as you and the Company may agree.
6. **Stock Options.** The Company has established a pool of common share stock options to be distributed to certain employees of the Company (the "Stock Option Pool"). You will be granted 8,461 options from the Stock Option Pool on the date hereof, in accordance with the terms of an option agreement to be entered into between you and the Company. In addition, you will be granted such number of options out of the Stock Option Pool as determined by the Board in its sole discretion, from time to time, the grant and terms of which shall be subject to the Board's approval and the terms of the Company's stock option plan or other incentive plan, as may be implemented or amended by the Company from time to time.
7. **Vacation.** You will be entitled to 3 weeks of vacation per year to be taken at times mutually acceptable to you and the Company. Vacation time must be taken in the year in which you are entitled to it, and it cannot be carried forward to a subsequent year except as provided by applicable legislation.
8. **Benefits.** You will be entitled to participate in the Company's benefits program, as may be made available to employees from time to time, subject to and in accordance with the terms and conditions of any applicable plans and any changes to or cancellation of such plans, as may be decided by the Company.
9. **Expenses.** You will be reimbursed for all reasonable travel, entertainment or other expenses incurred by you in carrying out your obligations hereunder, in accordance with the Company's expense policy in effect from time to time.
10. **Termination.**
  - (a) You may terminate your employment by providing sixteen weeks' notice. The Company may relieve you of all or any of your duties and responsibilities during that sixteen-week notice period. In the event that you so terminate, you will be entitled to salary, bonus, benefits and any unpaid vacation pay earned for the period you have worked.
  - (b) The Company may terminate your employment at any time for just cause without notice of termination or payment in lieu of notice on the occurrence of any one of the following events:
    - (i) If you are in breach of any material term of this Agreement and such breach is not cured within twenty (20) days after receiving written notice from the Company specifying the breach in reasonable detail, or within such longer period of time as may be reasonably necessary to cure such breach provided that you are acting in good faith and with all reasonable diligence to cure such breach;
    - (ii) If you cease to be licensed with RECO;
    - (iii) If you voluntarily cease to be RedPin Realty's broker of record;

- (iv) if you are convicted of a crime of moral turpitude;
- (v) if you make an assignment for the benefit of your creditors, are declared bankrupt, or otherwise take advantage of provisions for relief under the *Bankruptcy and Insolvency Act*, the *Companies Creditors Arrangement Act* or similar legislation in any jurisdiction, or make an authorized assignment, or make a proposal under the *Bankruptcy and Insolvency Act* or initiate proceedings under similar legislation in any jurisdiction;
- (vi) if a receiver, receiver and manager or receiver-manager of all or any part of your assets is appointed and such receiver, receiver and manager or receiver-manager is not discharged within 30 days of such appointment; and
- (vii) any other circumstances constituting just cause.

In such case, you will be entitled to salary, bonus, benefits and any unpaid vacation pay earned for the period you have worked.

- (c) The Company may terminate your employment at any time without just cause, provided that the Company shall provide you with the following separation package in full satisfaction of any and all obligations to you at law or in equity for termination without just cause:
  - (i) The Company will continue to pay your base salary for a period of six months. The payment of salary shall be paid on regularly scheduled pay periods over that period.
 

Should you accept alternate full time employment or consulting work leading to full time employment, you shall immediately advise the Company and any payments made pursuant to this section 10(c)(i) will be reduced by an amount equal to any salary or fees earned in such scheduled pay period in connection with your new employment or consulting engagement(s), as applicable.
  - (ii) Your coverage under all benefit programs outlined in section 8 above will be continued for the relevant period during which salary is continued as described in section 10(c)(i) above, except for long-term disability, accidental death & dismemberment and life insurance, which will be continued for the statutory notice period only.
- (d) Your employment will be automatically terminated in the event of your death or retirement and in each such case the Company shall pay you unpaid salary and bonus accrued to the date of termination. Your employment may be terminated without advance notice or payment in lieu of notice if you become permanently disabled, as that term is defined in the relevant disability benefits plan referred to in section 8 above, provided that you are receiving long-term disability benefits under said plan and that the termination of your employment will not result in the termination of those benefits.

- (e) You will accept the payments set out in this section 10 in full and final satisfaction of all rights and entitlements you may have under the applicable employment standards legislation, any other applicable legislation and at common law.

11. **Option to Re-Purchase Shares.**

- (a) In the event that you terminate your employment without providing the requisite notice in accordance with Section 10(a), you voluntarily cease to be RedPin Realty's broker of record without providing sixteen weeks' notice to the Company, or your employment is terminated for cause in accordance with Sections 10(b)(i), 10(b)(ii) or 10(b)(iv), the Company shall have the irrevocable option at its sole discretion (the "Option"), subject to making all required payments to you as set forth in this Agreement, to purchase for cancellation 30,000 Common Shares (the "Shares") registered in your name for an aggregate purchase price of \$1,038,011 (the "Purchase Price"). The Option must be exercised within ninety (90) days. If the Option is not exercised within ninety (90) days, the Option shall terminate (the "Option Expiry Date").
- (b) If the Company elects to exercise the Option, it shall deliver written notice to you prior to the Option Expiry Date (the "Option Exercise Notice") and shall tender therewith the Purchase Price following delivery of the Option Exercise Notice, together with all outstanding payments required to be made to you in accordance with the terms of this Agreement.
- (c) In the event that the Company exercises the Option, you shall be required to tender your share certificate for 30,000 Common Shares for cancellation on receipt of the Option Exercise Notice, the Purchase Price and all payments required to be made to you in accordance with the terms of this Agreement. In the event that you do not tender your share certificate for cancellation, you hereby appoint the Chief Executive Officer of the Company as your attorney, with full power of substitution, in the name of the Company but on your behalf and at your expense to execute and deliver all deeds, transfers, assignments and assurances necessary to effectively transfer the Shares being sold to the Company. That appointment, being coupled with an interest, is irrevocable by you and you shall ratify and confirm all that the Company may do or cause to be done in accordance with this Section 11.
- (d) The share certificate representing the 30,000 Common Shares in the capital of the Company issued to you shall have the following statement conspicuously noted thereon:

"The shares represented by this certificate are subject to a second amended and restated employment agreement dated as of March \_\_\_\_, 2015 between the Company and Tarik Gidamy."

12. **Non-Competition and Non-Solicitation.** You covenant and agree that at any time during your employment with the Company and for a period of one year after the termination of your employment relationship for any reason, you will not, within Canada, directly or indirectly carry on or be engaged in, either individually or in partnership or in conjunction with any person, firm, association or corporation, or provide services to, whether employment, consulting or other services, any business which is in direct competition with

the products or services of the Company and its subsidiaries, meaning any online real estate search, brokerage and information services provided by the Company and TheRedPin.com Realty Inc. directly or as licensed to a third party, including without limitation, the use of internet enabled methods to generate leads for renting, buying and selling homes, and offering VIP access to pre-sale condominium units and other residential real estate. You hereby agree that all restrictions in this provision are reasonable having regard to the sensitivity of the information given to you, the uniqueness of the Company's programs and businesses, the geographic scope of the Company's operations and the availability of employment by you in areas and fields that are not within these restrictions.

For a period of one year following the cessation of your employment with the Company for any reason whatsoever, you will not directly or indirectly:

- (a) solicit, induce or approach any employee of the Company to encourage any such employee to leave the employ of the Company or its subsidiaries;
  - (b) hire in any capacity any employee who was employed by the Company or its subsidiaries during the term of this agreement;
  - (c) solicit, induce, approach, call upon or attempt to divert from the Company any of the customers of the Company with whom you dealt or any prospective customers of the Company with whom you dealt before the cessation of your employment, located anywhere in Canada in order to provide products or services that are competitive with the products or services provided by the Company, without the prior approval of the Company; or
  - (d) interfere or attempt to interfere in any way with the Company's relationships with any of its suppliers, including without limitation, inducing or attempting to induce any supplier of the Company to change the terms of its dealings with the Company.
13. **Return of Company Property.** You agree that upon the cessation of your employment or at any time upon request, you will return all property belonging to the Company, including all pass codes, credit cards, cellular phones, lap tops, and all documents belonging to the Company, and any copies thereof, in any format whatsoever, including electronic format.
14. **Non-Disparagement.** You and the Company each agree to refrain from speaking or acting in a manner that is intended to, or does in fact, damage the goodwill or reputation or business of the Company, or your personal reputation or the personal reputations of any of the Company's directors, officers, agents, employees, clients, suppliers, or its affiliated entities.
15. **Governing Law.** This agreement, and all disputes arising under or related to it, shall be governed by the laws of the Province of Ontario, and the federal laws of Canada applicable therein, and the parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of Ontario with respect to such disputes, with the exception of an alleged breach of sections 13 or 14 hereof, in which case the Company may bring action in any jurisdiction in which it is alleged that the breach occurred.



16. **Severability and Successors.** If any provision of this agreement is declared void or unenforceable, such provision shall be deemed severed from this agreement to the extent of the particular circumstances giving rise to such declaration, and such provision as it applies to other persons and circumstances and the remaining terms and conditions of this agreement shall remain in full force and effect. This agreement may be assigned by the Company, and it is binding on and enures to the benefit of the Company and its successors and assigns.
17. **No Representations.** You agree that this agreement, including the attached Confidentiality and Intellectual Property Assignment Agreement, represents the entire agreement between us regarding the subject matter hereof, and that no representations or warranties, whether written or oral, have been made to you by the Company concerning the terms, enforceability, or implications of this agreement other than as are reflected herein. Any changes to this agreement must be made in writing and signed by the Company.
18. **Independent Legal Advice.** You agree that you have had an opportunity to obtain independent legal advice regarding the terms of this agreement.

If you are in agreement with the terms contained herein, please indicate your acceptance by signing and returning one copy of this letter to the undersigned by April \_\_, 2015, keeping a copy for your records.

We look forward to working together with you towards the success of the Company.

Yours sincerely,

TheRedPin, Inc.  
Per:

  
Joel Silver  
Director

I hereby acknowledge receipt of a copy of this agreement duly signed by the Company and that I understand and accept employment on the terms and conditions outlined in this letter.

---

Witness

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Tarik Eldarny

16. **Severability and Successors.** If any provision of this agreement is declared void or unenforceable, such provision shall be deemed severed from this agreement to the extent of the particular circumstances giving rise to such declaration, and such provision as it applies to other persons and circumstances and the remaining terms and conditions of this agreement shall remain in full force and effect. This agreement may be assigned by the Company, and it is binding on and enures to the benefit of the Company and its successors and assigns.
17. **No Representations.** You agree that this agreement, including the attached Confidentiality and Intellectual Property Assignment Agreement, represents the entire agreement between us regarding the subject matter hereof, and that no representations or warranties, whether written or oral, have been made to you by the Company concerning the terms, enforceability, or implications of this agreement other than as are reflected herein. Any changes to this agreement must be made in writing and signed by the Company.
18. **Independent Legal Advice.** You agree that you have had an opportunity to obtain independent legal advice regarding the terms of this agreement.

If you are in agreement with the terms contained herein, please indicate your acceptance by signing and returning one copy of this letter to the undersigned by April \_\_, 2015, keeping a copy for your records.

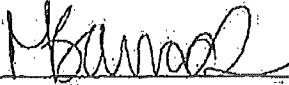
We look forward to working together with you towards the success of the Company.

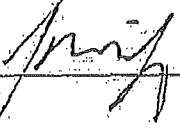
Yours sincerely,

**TheRedPin, Inc.**  
Per:

**Joel Silver**  
Director

I hereby acknowledge receipt of a copy of this agreement duly signed by the Company and that I understand and accept employment on the terms and conditions outlined in this letter.

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Tarik Gidamy



March 21, 2011

Tarik H. Gidamy  
TheRedPin, Inc.  
180 Bloor Street West, Suite 602  
Toronto, ON M5S 2V6

Dear Tarik:

As you know, the shareholders of TheRedPin, Inc. (the "**Company**") are currently in negotiations with TrilogyGrowth LP for the prospective purchase of Series "A" Preferred Shares of the Company (the "**Transaction**"). It is a condition of the Transaction that certain key executives, including you, accept continued employment with the Company following the closing of the Transaction. As such, we are pleased to offer you continued employment with the Company on the following terms and conditions, conditional upon and effective as of the date of closing of the Transaction:

1. **Office.** You will continue to be employed by the Company in the position of Broker of Record, reporting to the Company's Chief Executive Officer. As Broker of Record, you will have all of the usual authority, duties and responsibilities attached to that position, as may be amended by the Company's board of directors (the "**Board**") from time to time (acting reasonably and in good faith, and subject to the terms and conditions of this Agreement) to meet changing business and operational needs.
2. **Term.** Your employment with the Company under the terms of this offer will commence upon closing of the Transaction on March 21, 2012, and shall continue on an indefinite basis subject to the termination provisions below.
3. **Service.** You will serve the Company faithfully, honestly, diligently and to the best of your abilities. Throughout your term of employment, you will devote your full working time and attention to the business and affairs of the Company and will not be engaged in other employment. Nothing herein will preclude you from representing other enterprises in a board or advisory capacity if such activity does not restrict or impair the performance of your obligations to the Company. You will comply with all of the Company's policies and regulations as may be implemented or amended by the Company from time to time.
4. **Base Salary.** You will be paid a base salary of CDN\$100,000 per annum, less applicable deductions and withholdings, payable in monthly installments (or as otherwise agreed by the parties), or at other such times as you and the Company may agree. Compensation shall be reviewed annually by the Board.

5. **Commission.** Once TheRedPin.com Realty Inc. ("**RedPin Realty**") collects \$2,300,000 in fees from February 1<sup>st</sup> to December 31<sup>st</sup> 2012 and \$2,500,000 in fees from 2013 onwards, from buying and selling real estate in Halton, Peel, York and Durham Regions and the City of Toronto (collectively, the "**GTA**"), net HST (the "**Fee Threshold**"), you will be eligible to earn a commission equal to five percent (5%) of the fees earned by RedPin Realty on all subsequent sales of real estate in the GTA (the "**Commission**"), provided that the Commission shall not exceed CDN\$175,000 in any fiscal year (non-cumulative) (the "**Commission Period**"), and such amount shall be pro-rated for the 2012 fiscal year. Once the Fee Threshold is met, Commissions shall be calculated by taking RedPin Realty's commission for each real estate sale or purchase net of incentives and discounts offered to RedPin Realty's clients, HST (if applicable) and agent fees paid by RedPin Realty and multiplying such amount by 0.05. You shall only be entitled to receive Commissions provided that you are RedPin Realty's broker of record in good standing with The Real Estate Council of Ontario ("**RECO**"). If you cease to be RedPin Realty's broker of record, you shall no longer be entitled to any Commissions, provided however, that any Commission earned up to such date shall be paid in accordance with section 6.
6. **Payment of Commission.** The Commission shall be paid as follows:
- (a) For fees emanating from sales of real estate which are paid in three or more installments, the Commission shall be paid once RedPin Realty receives the second installment; or
  - (b) For fees emanating from sales of real estate which are paid in one or two installments, the Commission shall be paid once RedPin Realty receives the first installment.
7. **Stock Options.** The Company has established a pool of common share stock options to be distributed to certain employees of the Company (the "**Stock Option Pool**"). You will be granted such number of options out of the Stock Option Pool as determined by the Board in its sole discretion, from time to time, the grant and terms of which shall be subject to the Board's approval and the terms of the Company's stock option plan or other incentive plan, as may be implemented or amended by the Company from time to time.
8. **Vacation.** You will be entitled to 3 weeks of vacation per year to be taken at times mutually acceptable to you and the Company. Vacation time must be taken in the year in which you are entitled to it, and it cannot be carried forward to a subsequent year except as provided by applicable legislation.
9. **Benefits.** You will be entitled to participate in the Company's benefits program, as may be made available to employees from time to time, subject to and in accordance with the terms and conditions of any applicable plans and any changes to or cancellation of such plans, as may be decided by the Company.
10. **Expenses.** You will be reimbursed for all reasonable travel, entertainment or other expenses incurred by you in carrying out your obligations hereunder, in accordance with the Company's expense policy in effect from time to time.
11. **Termination.**

Office	Fax	Web	Address
416.8000.812	416.551.9599	TheRedPin.com	180 Bloor St W - Suite 602, Toronto, ON M5S 2V6

(a) You may terminate your employment by providing sixteen weeks' notice. The Company may relieve you of all or any of your duties and responsibilities during that sixteen-week notice period. In the event that you so terminate, you will be entitled to salary, benefits and any unpaid vacation pay earned for the period you have worked. The Company will also pay you any Commission which you would otherwise be entitled under section 5 above for that portion of the Commission Period worked prior to the termination, provided that Commissions were actually payable for that period. The Commission will be paid out in accordance with section 6.

(b) The Company may terminate your employment at any time for just cause without notice of termination or payment in lieu of notice on the occurrence of any one of the following events:

- (i) if you are in breach of any material term of this Agreement and such breach is not cured within twenty (20) days after receiving written notice from the Company specifying the breach in reasonable detail, or within such longer period of time as may be reasonably necessary to cure such breach provided that you are acting in good faith and with all reasonable diligence to cure such breach;
- (ii) if you cease to be licensed with RECO;
- (iii) if you voluntarily cease to be RedPin Realty's broker of record;
- (iv) if you are convicted of a crime of moral turpitude;
- (v) if you make an assignment for the benefit of your creditors, are declared bankrupt, or otherwise take advantage of provisions for relief under the *Bankruptcy and Insolvency Act*, the *Companies Creditors Arrangement Act* or similar legislation in any jurisdiction, or make an authorized assignment, or make a proposal under the *Bankruptcy and Insolvency Act* or initiate proceedings under similar legislation in any jurisdiction;
- (vi) if a receiver, receiver and manager or receiver-manager of all or any part of your assets is appointed and such receiver, receiver and manager or receiver-manager is not discharged within 30 days of such appointment; and
- (vii) any other circumstances constituting just cause.

In such case, you will be entitled to salary, benefits and any unpaid vacation pay earned for the period you have worked. The Company will also pay you any Commissions to which you would otherwise be entitled under section 5 above for that portion of the Commission Period worked prior to the termination. The Commission will be paid out in accordance with section 6.

(c) The Company may terminate your employment at any time without just cause, provided that the Company shall provide you with the following separation package in full satisfaction of any and all obligations to you at law or in equity for termination without just cause:

Office  
416.8000.812

Fax  
416.551.9599

Web  
TheRedPin.com

Address  
180 Bloor St W - Suite 602, Toronto, ON M5S 2V6

- (i) The Company will continue to pay your base salary for a period of six months. The payment of salary shall be paid on regularly scheduled pay periods over that period.

Should you accept alternate full time employment or consulting work leading to full time employment, you shall immediately advise the Company and any payments made pursuant to this section 11(c)(i) will be reduced by an amount equal to any salary or fees earned in such scheduled pay period in connection with your new employment or consulting engagement(s), as applicable.

- (ii) Your coverage under all benefit programs outlined in section 9 above will be continued for the relevant period during which salary is continued as described in section 11(c)(i) above, except for long-term disability, accidental death & dismemberment and life insurance, which will be continued for the statutory notice period only.
- (iii) The Company will pay you any Commission to which you would otherwise be entitled under section 5 for that portion of the Commission Period worked prior to the termination, provided that Commissions were actually payable for that period. The Commission will be paid out in accordance with section 6.

- (d) Your employment will be automatically terminated in the event of your death or retirement and in each such case the Company shall pay you unpaid salary accrued to the date of termination. You will be entitled to receive any Commissions to which you would otherwise be entitled under section 5 above for that portion of the Commission Period worked prior to the termination. The Commission will be paid out in accordance with section 6.
- (e) Your employment may be terminated without advance notice or payment in lieu of notice if you become permanently disabled, as that term is defined in the relevant disability benefits plan referred to in section 9 above, provided that you are receiving long-term disability benefits under said plan and that the termination of your employment will not result in the termination of those benefits. You will be entitled to receive any Commissions to which you would otherwise be entitled under section 5 above for that portion of the Commission period worked prior to the termination. The Commission will be paid out in accordance with section 6.
- (f) You will accept the payments set out in this section 11 in full and final satisfaction of all rights and entitlements you may have under the applicable employment standards legislation, any other applicable legislation and at common law.

## 12. Option to Re-Purchase Shares.

- (a) In the event that you terminate your employment without providing the requisite notice in accordance with Section 11(a), you voluntarily cease to be RedPin Realty's broker of record without providing sixteen weeks' notice to the Company, or your employment is terminated for cause in accordance with Sections 11(b)(i), 11(b)(ii) or 11(b)(iv), the Company shall have the irrevocable option at its sole

Office	Fax	Web	Address
416.8000.812	416.551.9599	TheRedPin.com	180 Bloor St W - Suite 602, Toronto, ON M5S 2V6

discretion (the "Option"), subject to making all required payments to you as set forth in this Agreement, to purchase for cancellation 30,000 Common Shares (the "Shares") registered in your name for an aggregate purchase price of \$1.03801 (the "Purchase Price"). The Option must be exercised within ninety (90) days. If the Option is not exercised within ninety (90) days, the Option shall terminate (the "Option Expiry Date").

- (b) If the Company elects to exercise the Option, it shall deliver written notice to you prior to the Option Expiry Date (the "Option Exercise Notice") and shall tender therewith the Purchase Price following delivery of the Option Exercise Notice, together with all outstanding payments required to be made to you in accordance with the terms of this Agreement.
- (c) In the event that the Company exercises the Option, you shall be required to tender your share certificate for 30,000 Common Shares for cancellation on receipt of the Option Exercise Notice, the Purchase Price and all payments required to be made to you in accordance with the terms of this Agreements. In the event that you do not tender your share certificate for cancellation, you hereby appoint the Chief Executive Officer of the Company as your attorney, with full power of substitution, in the name of the Company but on your behalf and at your expense to execute and deliver all deeds, transfers, assignments and assurances necessary to effectively transfer the Shares being sold to the Company. That appointment, being coupled with an interest, is irrevocable by you and you shall ratify and confirm all that the Company may do or cause to be done in accordance with this Section 12.
- (d) The share certificate representing the 30,000 Common Shares in the capital of the Company issued to you shall have the following statement conspicuously noted thereon:

"The shares represented by this certificate are subject to an employment agreement dated as of March 21, 2012 between the Company and Tarik Gidamy."

13. **Non-Competition and Non-Solicitation.** You covenant and agree that at any time during your employment with the Company and for a period of one year after the termination of your employment relationship for any reason, you will not, within Canada, directly or indirectly carry on or be engaged in, either individually or in partnership or in conjunction with any person, firm, association or corporation, or provide services to, whether employment, consulting or other services, any business which is in direct competition with the products or services of the Company and its subsidiaries, meaning any online real estate search, brokerage and information services provided by the Company and TheRedPin.com Realty Inc. directly or as licensed to a third party, including without limitation, the use of internet enabled methods to generate leads for renting, buying and selling homes, and offering VIP access to pre-sale condominium units and other residential real estate. You hereby agree that all restrictions in this provision are reasonable having regard to the sensitivity of the information given to you, the uniqueness of the Company's programs and businesses, the geographic scope of the Company's operations and the availability of employment by you in areas and fields that are not within these restrictions.



For a period of one year following the cessation of your employment with the Company for any reason whatsoever, you will not directly or indirectly:

- (a) solicit, induce or approach any employee of the Company to encourage any such employee to leave the employ of the Company or its subsidiaries;
  - (b) hire in any capacity any employee who was employed by the Company or its subsidiaries during the term of this agreement;
  - (c) solicit, induce, approach, call upon or attempt to divert from the Company any of the customers of the Company with whom you dealt or any prospective customers of the Company with whom you dealt before the cessation of your employment, located anywhere in Canada in order to provide products or services that are competitive with the products or services provided by the Company, without the prior approval of the Company; or
  - (d) interfere or attempt to interfere in any way with the Company's relationships with any of its suppliers, including without limitation, inducing or attempting to induce any supplier of the Company to change the terms of its dealings with the Company.
14. **Confidential Information and Intellectual Property.** You will sign the attached Confidentiality and Intellectual Property Assignment Agreement.
15. **Return of Company Property.** You agree that upon the cessation of your employment or at any time upon request, you will return all property belonging to the Company, including all pass codes, credit cards, cellular phones, lap tops, and all documents belonging to the Company, and any copies thereof, in any format whatsoever, including electronic format.
16. **Non-Disparagement.** You and the Company each agree to refrain from speaking or acting in a manner that is intended to, or does in fact, damage the goodwill or reputation or business of the Company, or your personal reputation or the personal reputations of any of the Company's directors, officers, agents, employees, clients, suppliers, or its affiliated entities.
17. **Governing Law.** This agreement, and all disputes arising under or related to it, shall be governed by the laws of the Province of Ontario, and the federal laws of Canada applicable therein, and the parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of Ontario with respect to such disputes, with the exception of an alleged breach of sections 12, 15 or 16 hereof, in which case the Company may bring action in any jurisdiction in which it is alleged that the breach occurred.
18. **Severability and Successors.** If any provision of this agreement is declared void or unenforceable, such provision shall be deemed severed from this agreement to the extent of the particular circumstances giving rise to such declaration, and such provision as it applies to other persons and circumstances and the remaining terms and conditions of this agreement shall remain in full force and effect. This agreement may be assigned by the Company, and it is binding on and enures to the benefit of the Company and its successors and assigns.

Office  
416.8000.812

Fax  
416.551.9599

Web  
TheRedPin.com

Address  
180 Bloor St W - Suite 602, Toronto, ON M5S 2V6

19. **No Representations.** You agree that this agreement, including the attached Confidentiality and Intellectual Property Assignment Agreement, represents the entire agreement between us regarding the subject matter hereof, and that no representations or warranties, whether written or oral, have been made to you by the Company concerning the terms, enforceability, or implications of this agreement other than as are reflected herein. Any changes to this agreement must be made in writing and signed by the Company.
20. **Independent Legal Advice.** You agree that you have had an opportunity to obtain independent legal advice regarding the terms of this agreement.

If you are in agreement with the terms contained herein, please indicate your acceptance by signing and returning one copy of this letter and the attached Confidentiality and Intellectual Property Assignment Agreement to the undersigned by March 21, 2012, keeping a copy for your records.

We look forward to working together with you towards the success of the Company.

Yours sincerely,

TheRedPin, Inc.

Per: *Shayan Hamidi*

**Shayan Hamidi**

I hereby acknowledge receipt of a copy of this agreement duly signed by the Company and that I understand and accept employment on the terms and conditions outlined in this letter.

*[Signature]*  
\_\_\_\_\_  
Witness

*[Signature]*  
\_\_\_\_\_  
Tarik Gidamy

Office  
416.8000.812

Fax  
416.551.9599

Web  
TheRedPin.com

Address  
180 Bloor St W - Suite 602, Toronto, ON M5S 2V6



**TAB 14**

June 25, 2014

Tarik H. Gidamy  
TheRedPin, Inc.  
5 Church Street  
Toronto, ON  
M5E 1M2

Dear Tarik:

As you know, the shareholders of TheRedPin, Inc. (the "**Company**") are currently in negotiations with Trilogy Growth Fund LP for the prospective subscription for additional Series "B" Preferred Shares of the Company (the "**Transaction**"). It is a condition of the Transaction that certain key executives, including you, enter into amended and restated employment agreements with the Company. As such, we are pleased to offer you continued employment with the Company on the following terms and conditions, conditional upon and effective as of the date of closing of the Transaction:

1. **Office.** You will continue to be employed by the Company in the position of Chief Sales Officer, reporting to the Company's Chief Executive Officer. As Chief Sales Officer, you will have all of the usual authority, duties and responsibilities attached to that position, as may be amended by the Company's board of directors (the "**Board**") from time to time (acting reasonably and in good faith, and subject to the terms and conditions of this Agreement) to meet changing business and operational needs.
2. **Term.** Your employment with the Company under the terms of this offer will commence upon closing of the Transaction on June 25, 2014, and shall continue on an indefinite basis subject to the termination provisions below.
3. **Service.** You will serve the Company faithfully, honestly, diligently and to the best of your abilities. Throughout your term of employment, you will devote your full working time and attention to the business and affairs of the Company and will not be engaged in other employment. Nothing herein will preclude you from representing other enterprises in a board or advisory capacity if such activity does not restrict or impair the performance of your obligations to the Company. You will comply with all of the Company's policies and regulations as may be implemented or amended by the Company from time to time.
4. **Base Salary.** Effective as of January 1, 2014, you will be paid a base salary of CDN\$150,000 per annum, less applicable deductions and withholdings, payable in monthly installments (or as otherwise agreed by the parties), or at other such times as you and the Company may agree. Compensation shall be reviewed annually by the Board.

5. **Bonus.** You will be paid an annual incentive bonus of CDN\$125,000 per annum, payable in monthly installments (or as otherwise agreed by the parties), or at other such times as you and the Company may agree. Your eligibility for a bonus in fiscal year 2014 is retroactive to January 1, 2014.
6. **Stock Options.** The Company has established a pool of common share stock options to be distributed to certain employees of the Company (the "**Stock Option Pool**"). You will be granted such number of options out of the Stock Option Pool as determined by the Board in its sole discretion, from time to time, the grant and terms of which shall be subject to the Board's approval and the terms of the Company's stock option plan or other incentive plan, as may be implemented or amended by the Company from time to time.
7. **Vacation.** You will be entitled to 3 weeks of vacation per year to be taken at times mutually acceptable to you and the Company. Vacation time must be taken in the year in which you are entitled to it, and it cannot be carried forward to a subsequent year except as provided by applicable legislation.
8. **Benefits.** You will be entitled to participate in the Company's benefits program, as may be made available to employees from time to time, subject to and in accordance with the terms and conditions of any applicable plans and any changes to or cancellation of such plans, as may be decided by the Company.
9. **Expenses.** You will be reimbursed for all reasonable travel, entertainment or other expenses incurred by you in carrying out your obligations hereunder, in accordance with the Company's expense policy in effect from time to time.
10. **Termination.**
  - (a) You may terminate your employment by providing sixteen weeks' notice. The Company may relieve you of all or any of your duties and responsibilities during that sixteen-week notice period. In the event that you so terminate, you will be entitled to salary, bonus, benefits and any unpaid vacation pay earned for the period you have worked.
  - (b) The Company may terminate your employment at any time for just cause without notice of termination or payment in lieu of notice on the occurrence of any one of the following events:
    - (i) if you are in breach of any material term of this Agreement and such breach is not cured within twenty (20) days after receiving written notice from the Company specifying the breach in reasonable detail, or within such longer period of time as may be reasonably necessary to cure such breach provided that you are acting in good faith and with all reasonable diligence to cure such breach;
    - (ii) if you cease to be licensed with RECO;
    - (iii) if you voluntarily cease to be RedPin Realty's broker of record;
    - (iv) if you are convicted of a crime of moral turpitude;

- (v) if you make an assignment for the benefit of your creditors, are declared bankrupt, or otherwise take advantage of provisions for relief under the *Bankruptcy and Insolvency Act*, the *Companies Creditors Arrangement Act* or similar legislation in any jurisdiction, or make an authorized assignment, or make a proposal under the *Bankruptcy and Insolvency Act* or initiate proceedings under similar legislation in any jurisdiction;
- (vi) if a receiver, receiver and manager or receiver-manager of all or any part of your assets is appointed and such receiver, receiver and manager or receiver-manager is not discharged within 30 days of such appointment; and
- (vii) any other circumstances constituting just cause.

In such case, you will be entitled to salary, bonus, benefits and any unpaid vacation pay earned for the period you have worked.

- (c) The Company may terminate your employment at any time without just cause, provided that the Company shall provide you with the following separation package in full satisfaction of any and all obligations to you at law or in equity for termination without just cause:
  - (i) The Company will continue to pay your base salary for a period of six months. The payment of salary shall be paid on regularly scheduled pay periods over that period.

Should you accept alternate full time employment or consulting work leading to full time employment, you shall immediately advise the Company and any payments made pursuant to this section 10(c)(i) will be reduced by an amount equal to any salary or fees earned in such scheduled pay period in connection with your new employment or consulting engagement(s), as applicable.
  - (ii) Your coverage under all benefit programs outlined in section 8 above will be continued for the relevant period during which salary is continued as described in section 10(c)(i) above, except for long-term disability, accidental death & dismemberment and life insurance, which will be continued for the statutory notice period only.
- (d) Your employment will be automatically terminated in the event of your death or retirement and in each such case the Company shall pay you unpaid salary and bonus accrued to the date of termination. Your employment may be terminated without advance notice or payment in lieu of notice if you become permanently disabled, as that term is defined in the relevant disability benefits plan referred to in section 8 above, provided that you are receiving long-term disability benefits under said plan and that the termination of your employment will not result in the termination of those benefits.
- (e) You will accept the payments set out in this section 10 in full and final satisfaction of all rights and entitlements you may have under the applicable employment standards legislation, any other applicable legislation and at common law.

11. **Option to Re-Purchase Shares.**

- (a) In the event that you terminate your employment without providing the requisite notice in accordance with Section 10(a), you voluntarily cease to be RedPin Realty's broker of record without providing sixteen weeks' notice to the Company, or your employment is terminated for cause in accordance with Sections 10(b)(i), 10(b)(ii) or 10(b)(iv), the Company shall have the irrevocable option at its sole discretion (the "**Option**"), subject to making all required payments to you as set forth in this Agreement, to purchase for cancellation 30,000 Common Shares (the "**Shares**") registered in your name for an aggregate purchase price of \$1.03801 (the "**Purchase Price**"). The Option must be exercised within ninety (90) days. If the Option is not exercised within ninety (90) days, the Option shall terminate (the "**Option Expiry Date**").
- (b) If the Company elects to exercise the Option, it shall deliver written notice to you prior to the Option Expiry Date (the "**Option Exercise Notice**") and shall tender therewith the Purchase Price following delivery of the Option Exercise Notice, together with all outstanding payments required to be made to you in accordance with the terms of this Agreement.
- (c) In the event that the Company exercises the Option, you shall be required to tender your share certificate for 30,000 Common Shares for cancellation on receipt of the Option Exercise Notice, the Purchase Price and all payments required to be made to you in accordance with the terms of this Agreements. In the event that you do not tender your share certificate for cancellation, you hereby appoint the Chief Executive Officer of the Company as your attorney, with full power of substitution, in the name of the Company but on your behalf and at your expense to execute and deliver all deeds, transfers, assignments and assurances necessary to effectively transfer the Shares being sold to the Company. That appointment, being coupled with an interest, is irrevocable by you and you shall ratify and confirm all that the Company may do or cause to be done in accordance with this Section 11.
- (d) The share certificate representing the 30,000 Common Shares in the capital of the Company issued to you shall have the following statement conspicuously noted thereon:

"The shares represented by this certificate are subject to an amended and restated employment agreement dated as of June \_\_\_\_, 2014 between the Company and Tarik Gidamy."

12. **Non-Competition and Non-Solicitation.** You covenant and agree that at any time during your employment with the Company and for a period of one year after the termination of your employment relationship for any reason, you will not, within Canada, directly or indirectly carry on or be engaged in, either individually or in partnership or in conjunction with any person, firm, association or corporation, or provide services to, whether employment, consulting or other services, any business which is in direct competition with the products or services of the Company and its subsidiaries, meaning any online real estate search, brokerage and information services provided by the Company and TheRedPin.com Realty Inc. directly or as licensed to a third party, including without limitation, the use of internet enabled methods to generate leads for renting, buying and



selling homes, and offering VIP access to pre-sale condominium units and other residential real estate. You hereby agree that all restrictions in this provision are reasonable having regard to the sensitivity of the information given to you, the uniqueness of the Company's programs and businesses, the geographic scope of the Company's operations and the availability of employment by you in areas and fields that are not within these restrictions.

For a period of one year following the cessation of your employment with the Company for any reason whatsoever, you will not directly or indirectly:

- (a) solicit, induce or approach any employee of the Company to encourage any such employee to leave the employ of the Company or its subsidiaries;
  - (b) hire in any capacity any employee who was employed by the Company or its subsidiaries during the term of this agreement;
  - (c) solicit, induce, approach, call upon or attempt to divert from the Company any of the customers of the Company with whom you dealt or any prospective customers of the Company with whom you dealt before the cessation of your employment, located anywhere in Canada in order to provide products or services that are competitive with the products or services provided by the Company, without the prior approval of the Company; or
  - (d) interfere or attempt to interfere in any way with the Company's relationships with any of its suppliers, including without limitation, inducing or attempting to induce any supplier of the Company to change the terms of its dealings with the Company.
13. **Return of Company Property.** You agree that upon the cessation of your employment or at any time upon request, you will return all property belonging to the Company, including all pass codes, credit cards, cellular phones, lap tops, and all documents belonging to the Company, and any copies thereof, in any format whatsoever, including electronic format.
14. **Non-Disparagement.** You and the Company each agree to refrain from speaking or acting in a manner that is intended to, or does in fact, damage the goodwill or reputation or business of the Company, or your personal reputation or the personal reputations of any of the Company's directors, officers, agents, employees, clients, suppliers, or its affiliated entities.
15. **Governing Law.** This agreement, and all disputes arising under or related to it, shall be governed by the laws of the Province of Ontario, and the federal laws of Canada applicable therein, and the parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of Ontario with respect to such disputes, with the exception of an alleged breach of sections 13 or 14 hereof, in which case the Company may bring action in any jurisdiction in which it is alleged that the breach occurred.
16. **Severability and Successors.** If any provision of this agreement is declared void or unenforceable, such provision shall be deemed severed from this agreement to the extent of the particular circumstances giving rise to such declaration, and such provision as it applies to other persons and circumstances and the remaining terms and conditions of this agreement shall remain in full force and effect. This agreement may be assigned by

the Company, and it is binding on and enures to the benefit of the Company and its successors and assigns.

17. **No Representations.** You agree that this agreement, including the attached Confidentiality and Intellectual Property Assignment Agreement, represents the entire agreement between us regarding the subject matter hereof, and that no representations or warranties, whether written or oral, have been made to you by the Company concerning the terms, enforceability, or implications of this agreement other than as are reflected herein. Any changes to this agreement must be made in writing and signed by the Company.
18. **Independent Legal Advice.** You agree that you have had an opportunity to obtain independent legal advice regarding the terms of this agreement.

If you are in agreement with the terms contained herein, please indicate your acceptance by signing and returning one copy of this letter to the undersigned by June \_\_, 2014, keeping a copy for your records.

We look forward to working together with you towards the success of the Company.

Yours sincerely,

**TheRedPin, Inc.**

Per:



I hereby acknowledge receipt of a copy of this agreement duly signed by the Company and that I understand and accept employment on the terms and conditions outlined in this letter.

\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Tarik Gidamy

**TAB**

**5**

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

VM/lms

B E T W E E N:

FIREPOWER DEBT GP INC., AS AGENT

Applicant

- and -

THEREDPIN, INC. and THEREDPIN.COM REALTY INC.

Respondents

APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY  
AND INSOLVENCY ACT, R.S.C. 1985, c. B-3, AS AMENDED, AND  
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990,  
c. C.43, AS AMENDED

- - - - -

This is the Cross-Examination of JARED KALISH, on his  
Affidavit sworn the 9th day of October, 2018, taken at the  
offices of VICTORY VERBATIM REPORTING SERVICES INC.,  
Suite 900, Ernst & Young Tower, 222 Bay Street, Toronto,  
Ontario, on the 11th day of October, 2018.

- - - - -

APPEARANCES:

HARVEY CHAITON  
JORDAN GOLDBLATT  
IRIS GRAHAM  
AUBREY KAUFFMAN

-- for the Applicant  
-- for the TRP Agents  
-- for Trilogy Growth Fund, L.P.

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1 --- upon commencing at 1:55 p.m.

2

3 JARED KALISH, affirmed

4 CROSS-EXAMINATION BY MR. GOLDBLATT:

5 1. Q. Can you please state and spell your  
6 name?

7 A. Jared Kalish, J-A-R-E-D  
8 K-A-L-I-S-H.

9 2. Q. And you understand you're here being  
10 cross-examined on an affidavit you swore on October  
11 9th, 2018?

12 A. Yes.

13 3. Q. And you have a copy of that  
14 affidavit in front of you, I see.

15 A. Yes.

16 4. Q. As we sit here today, are there any  
17 alterations, revisions or changes that you wish to  
18 make to the affidavit?

19 A. No, nothing.

20 5. Q. And at the time you swore the  
21 affidavit did you believe it to be true?

22 A. Yes.

23 6. Q. And you continue to believe it to be  
24 true today?

25 A. Yes.

1           7.           Q.           In swearing your affidavit you  
2 understand that it's being put in front of the  
3 court?

4                   A.           Yes.

5           8.           Q.           And you tried to be complete in your  
6 affidavit, I take it?

7                   A.           Yes, that is correct.

8           9.           Q.           You tried to be fair?

9                   A.           Yes.

10          10.          Q.           Prior to swearing your affidavit,  
11 had you had an opportunity to see the two reports of  
12 the receiver that are relevant to the issues on the  
13 commissions motion?

14                   A.           Yes, I did.

15          11.          Q.           And I don't think we need to  
16 identify it.

17                   A.           No.

18          12.          Q.           I think we know which reports we're  
19 talking about. Did you have an opportunity to  
20 review the record put forward by the TRP agents?

21                   A.           Yes, I did read it.

22          13.          Q.           And that is the affidavit of  
23 Tarik...

24                   A.           Yes, yes.

25          14.          Q.           ...T-A-R-I-K, Gidamy, G-I-D-A-M-Y,



1 and Dennise Paccione?

2 A. Yes, yes.

3 15. Q. Okay. Am I right, and you can tell  
4 me if I'm not, that your background is not in the  
5 area of real estate?

6 A. Yes, that is correct.

7 16. Q. You have never been trained in the  
8 rules of the Real Estate Council of Ontario?

9 A. Never.

10 17. Q. And your affidavit has been sworn on  
11 behalf of Firepower Debt GP Inc., correct?

12 A. Yes, that is correct.

13 18. Q. And its interest in the motion is in  
14 respect of certain commissions and whether or not  
15 they're held in trust for the agents. Do you  
16 understand that?

17 A. Yes...well, we have a ban to them.  
18 We have a loan to TheRedPin, correct.

19 19. Q. Right. And obviously, Firepower is  
20 taking the position that the commissions are part of  
21 its security...

22 A. Yes, that is correct.

23 20. Q. ...or covered by its security  
24 agreement, right?

25 A. Yes.

1 21. Q. If the money is held in trust for  
2 the TRP agents, some of those funds are still going  
3 to be paid back to TRP Realty, aren't they?

4 A. But they're not. They're not in  
5 trust.

6 22. Q. No, no, I appreciate that.

7 A. Yes, yes.

8 23. Q. But some of the amounts that we say  
9 are in trust with a commission...in trust with a  
10 trust, TRP Realty still receives payment from some  
11 of the commissions, in any event, doesn't it?

12 A. I'm not sure what you mean. I'm if  
13 it's...as a custodian relationship, if there was a  
14 trust, yes, but it's not.

15 24. Q. I've asked a bad question, so let me  
16 try again.

17 A. Yes.

18 25. Q. You're aware that the way that the  
19 flow of funds works is that certain monies are to be  
20 paid to the TRP agents in the normal course, right?

21 A. Yes. If I can explain it, so  
22 TheRedPin earns commission from a brokerage from a  
23 sale, and ultimately the money comes to TheRedPin,  
24 and part of what happens then is that the agents are  
25 then...you know, TheRedPin has to make a payment to

1 the agents...

2 26. Q. Right.

3 A. ...which, in this case, they would  
4 be unsecured creditors.

5 27. Q. Well, let's not have that debate,  
6 but from the amounts that are being paid or owed as  
7 commissions, some of that commission entitlement,  
8 regardless of whether it's a trust or not, TRP  
9 Realty still gets paid some of the commissions,  
10 doesn't it? You understand that?

11 MR. KAUFFMAN: From the gross  
12 commissions.

13 THE DEPONENT: Yes.

14

15 BY MR. GOLDBLATT:

16 28. Q. From the gross commissions.

17 A. Yes.

18 29. Q. Do you understand that?

19 A. Yes, yes.

20 30. Q. Okay. And if you want, I can take  
21 you through the independent contract. You read the  
22 independent contract or agreements?

23 A. Yes.

24 31. Q. And you're aware that in each of  
25 them there's an obligation on the agent to remit



1 deals, and the company is to receive a  
2 minimum amount of \$500 per executed deal to  
3 cover administration costs..."

4 And it goes on from there, right?

5 A. M'hmm.

6 38. Q. So you don't dispute the fact that  
7 when the commissions are being paid to the agents,  
8 some of the amounts are still going to be paid back  
9 to TRP Realty?

10 A. No, I disagree with you.

11 39. Q. You disagree with me?

12 A. Yes.

13 40. Q. Okay. You're not an officer or  
14 director of TRP?

15 A. No.

16 41. Q. And when I say TRP, I'm talking  
17 about either the Inc. or Realty.

18 A. No, I'm not.

19 42. Q. You've never been an officer or  
20 director?

21 A. I've never been an officer.

22 43. Q. And you're not a shareholder of  
23 either?

24 A. We are, yes.

25 44. Q. Firepower is?

1 A. Yes.

2 45. Q. Of which one?

3 A. The top company, Inc.

4 46. Q. Inc. Firepower wasn't a shareholder  
5 upon incorporation, was it?

6 A. No. Yes.

7 47. Q. When did it acquire its shareholding  
8 interest?

9 A. When...we had some warrants when we  
10 did the loan, so that would have been, I guess, the  
11 beginning of 2017. And then there's a restructuring  
12 where there's additional capital that was put into  
13 the business the middle of 2017, and received...we  
14 had additional preference shares that we owned in  
15 the business.

16 48. Q. Did somebody from Firepower become  
17 an officer or director...

18 A. No.

19 49. Q. ...in 2017?

20 A. No.

21 50. Q. Has anybody from Firepower ever been  
22 an officer or director?

23 A. No.

24 51. Q. Of either company?

25 A. Yes. No.

1           52.           Q.           So, Firepower doesn't become  
2 involved in TRP until around 2017, fair?

3           A.           We were involved...this is before my  
4 time, as an advisor to TRP in helping them raise  
5 some debt capital.

6           53.           Q.           Okay. But it doesn't advance funds  
7 in TRP until 2017?

8           A.           Yes, that is correct.

9           54.           Q.           Okay. So fair to say it wasn't  
10 involved in how TRP, either company, set up its  
11 financial affairs?

12          A.           No, no.

13          55.           Q.           So you agree with me?

14          A.           I agree with you, yes.

15          56.           Q.           And you also wouldn't have been  
16 involved in how they set up their business affairs?

17          A.           No.

18          57.           Q.           Again, you agree with me?

19          A.           I agree with you.

20          58.           Q.           And I would also assume that  
21 Firepower was never involved in respect of  
22 negotiating contracts between TRP Realty and the  
23 agents?

24          A.           That is correct. We have never done  
25 that.





1                   A.        If you're asking me if we were  
2                   forced to make a loan, no.

3       65.           Q.        Right.

4                   A.        Yes.

5       66.           Q.        And did you have legal counsel in  
6                   respect of the loan?

7                   A.        Yes.

8       67.           Q.        And who was that firm?

9                   A.        Wildeboer Dellelce.

10      68.           Q.        At the time that the advances were  
11                   made...I should say the advance was made in  
12                   2017...were you directly involved in that  
13                   transaction?

14                   A.        Yes.

15      69.           Q.        And so, would you have been involved  
16                   in understanding how the company actually operated  
17                   and ran?

18                   A.        I guess you could say that, to a  
19                   degree as a lender, not the actual operator.

20      70.           Q.        Did you have access to their bank  
21                   account statements in that process?

22                   A.        We...I will need to check. We may  
23                   have received them.

24      71.           Q.        Okay. So I would ask you to check  
25                   whether, prior to advancing funds, you had access to

1 their bank account statements.

2 A. Okay.

3 MR. CHAITON: Okay.

U/T

4

5 BY MR. GOLDBLATT:

6 72. Q. And after making the advance, did  
7 you have access to their bank account statements?

8 A. No. We wouldn't have received  
9 additional...not as far as I'm aware. And again, I  
10 will double-check.

11 73. Q. So I would ask you to also undertake  
12 to advise whether you received bank account  
13 statements after the advance was made.

14 MR. CHAITON: Before and after.

U/T

15

16 BY MR. GOLDBLATT:

17 74. Q. Yes. You've read in the receiver's  
18 report that TRP Realty had three bank accounts.  
19 You're aware of that?

20 A. Yes, correct.

21 75. Q. And at the time that the advance was  
22 made in 2017, were you aware that there were three  
23 bank accounts?

24 A. I'm not aware of anything like that  
25 that would have impacted our loans, so...

1 76. Q. Pardon me?

2 A. I don't think so, no.

3 77. Q. You were not aware of that?

4 A. I may have been. I mean, I think...

5 again, I will double-check.

U/T

6 78. Q. Well, I would ask you to check.

7 So, when you read the receiver's report, were you

8 surprised to learn that there is an account which

9 they've described as the commissions account?

10 A. Not at that stage, because there was

11 additional money...there was additional money that

12 went in by Trilogy that replaced some of the

13 Comerica debt to the end of 2017. And, at that

14 stage, there was an analysis that was done by

15 TheRedPin and Torys, who was Trilogy's counsel at

16 that point. And Keith, who was the CEO at the time,

17 had showed me the bank account structure and

18 illustrated that there is a trust account for

19 purchaser deposits, and there's two just regular

20 accounts which deal with operations of the business.

21 79. Q. Okay. And sorry, when do you say

22 you had this conversation with Mr. McSpurren?

23 A. I think this would have been

24 sometime late 2017, but...

25 80. Q. Late...

1                   A.           Yes.  I wouldn't have the exact  
2                   date.

3           81.           MR. GOLDBLATT:        Okay.  So in the  
4                   receiver's report...Counsel, do you have a  
5                   copy of the...

6                   MR. CHAITON:         I do.

7           82.           MR. GOLDBLATT:        ...first one?  And if  
8                   you could go to paragraph 27.

9                   MR. CHAITON:         There you go.

10

11           BY MR. GOLDBLATT:

12           83.           Q.           Mr. Kalish, at paragraph 27 there is  
13                   a description of three bank accounts.

14                   A.           M'hmm.

15           84.           Q.           Subparagraph (a) is the real estate  
16                   trust account.  Do you see that?

17                   A.           Yes, yes.

18           85.           Q.           And did you have an understanding of  
19                   the existence of a real estate trust account at the  
20                   time that you advanced funds in 2017?

21                   A.           Yes.

22           86.           Q.           So you knew that existed?

23                   A.           We knew that existed.

24           87.           Q.           Okay.  And at paragraph 27(b) it  
25                   refers to what is called the commissions account.

1 A. Yes.

2 88. Q. And you don't recall, as we sit here  
3 today, whether or not you knew about the existence  
4 of the commissions account as at the time that you  
5 advanced funds in 2017?

6 A. No. And I probably...I mean, unless  
7 we received a bank statement, but it wouldn't have  
8 come up in due diligence.

9 89. Q. The bank statement would not have  
10 come up in due diligence?

11 A. No...if we received it, maybe, but  
12 in terms of...I mean, I've just got to check if we  
13 received it, if we received the bank statement.

14 90. Q. Okay. And you're going to...you've  
15 given the undertaking to check and advise.

16 A. Yes.

17 91. Q. And then, there's a reference to a  
18 third account, which is at page 15 of the receiver's  
19 report, the general operating account. Do you see  
20 that?

21 A. Yes, I've got that.

22 92. Q. And were you aware of the existence  
23 of a general operating account at the time that you  
24 advanced funds in 2017?

25 A. Again, I would have to check.

1 93. Q. But you certainly recall being aware  
2 of the real estate trust account?

3 A. Yes, because we had discussions  
4 around that and that was restricted money.

5 94. Q. Pardon me?

6 A. The purchase...the one at 27(a), in  
7 terms of purchaser deposits, that was restricted to  
8 assets.

9 95. Q. Okay. So, at the time the advance  
10 was made, you understood purchaser deposits to be  
11 restricted money?

12 A. Yes.

13 96. Q. Did you understand that any other  
14 money was restricted money?

15 A. Not at all.

16 97. Q. And so, your evidence is that, other  
17 than the deposits, at the time the advance was made,  
18 all other cash with TRP was its own?

19 A. Yes. It was all the assets of  
20 TheRedPin.

21 98. Q. And the source of that belief is  
22 what?

23 A. It's the whole multitude of...I  
24 mean, it's some items...you know, some of the  
25 exhibits that I've showed you...put in the

1 affidavit, every correspondence, every...there was  
2 no reason to doubt that. I mean, that was the  
3 information that we received from the company.

4 99. Q. Well, can I take it that, if the  
5 documents were important to formulating that view,  
6 those are documents that have been appended to your  
7 affidavit?

8 A. Yes, yes.

9 100. Q. And if you had other communications  
10 that made that statement, you would have provided  
11 them, wouldn't you?

12 A. I probably have additional evidence  
13 to support exactly this, so...

14 101. Q. Right. But you haven't provided any  
15 other additional evidence, have you?

16 A. I can go back and find it if you  
17 would like.

18 102. Q. But you haven't done it as of today,  
19 have you?

20 A. I've put the stuff here that I felt  
21 was important.

22 103. Q. Okay. So...just one moment. When  
23 you talk about restricted money, restricted cash, is  
24 that something that you learned about from the KPMG  
25 audited financial statement?

1                   A.        I think I first learned about it was  
2                   from Sanja.

3       104.           Q.        From...

4                   A.        Sanja, who is the director of  
5                   finance.

6       105.           Q.        S-A-N-J-A?

7                   A.        Yes, that is correct. And it was,  
8                   I guess, confirmed on the KPMG...I mean...yes, we  
9                   might have got the financial statements before or  
10                  after, so that is...

11       106.           Q.        Would it not have been important  
12                  for Firepower at the time of advancing funds to  
13                  understand the flow of money within TRP?

14                  A.        No.

15       107.           Q.        No? It wasn't important to  
16                  understand at what point TRP could actually make  
17                  use of cash?

18                  A.        Well, if you're asking in terms of  
19                  our due diligence, and if we have...you know, use of  
20                  cash, like, the receivables, the assets of the  
21                  company, yes, the receivables are an important part  
22                  of our due diligence.

23       108.           Q.        Well, from Firepower's perspective,  
24                  what it was prepared to advance against was the  
25                  receivables, fair?



1 A. Those are...yes, that is fair.

2 109. Q. As opposed to what the gross or net  
3 profit was of TRP?

4 A. That was a factor as well.

5 110. Q. But, at the end of the day, it was  
6 the receivables that was part of the financing; that  
7 was the consideration for the financing?

8 A. It was a consideration, not the  
9 whole consideration.

10 111. Q. Right. You understood, though,  
11 generally at a high level the way the business  
12 worked, correct?

13 A. Yes, that is probably correct.

14 112. Q. And would it be fair to say that TRP  
15 was paid...or received commissions and had to pay a  
16 portion of those commissions to agents?

17 A. Yes, that is correct.

18 113. Q. And did you understand that the  
19 reason why the commissions were being paid to TRP as  
20 opposed to the agent was because of regulatory  
21 requirements?

22 A. No.

23 114. Q. You didn't understand that?

24 A. No.

25 115. Q. What was your understanding as to

1 why the receivables were paid to TRP as opposed to  
2 directly to the agents?

3 A. Because TRP was essentially doing  
4 lead generation. They were finding deals that  
5 worked with...they were feeding deals to the agents.  
6 The primary source of...you know, agents actually  
7 working for TheRedPin. So, in my mind, you know,  
8 the agents were just salespeople of TheRedPin.

9 116. Q. Right. And you didn't consider the  
10 statutory requirements in respect of reaching that  
11 opinion, did you?

12 A. No.

13 117. Q. But you understood that TRP had an  
14 obligation to pay the commissions to its agents?

15 A. Yes.

16 118. Q. And that if TRP was operating  
17 properly, its revenue at the end of the day was the  
18 net commissions, not the gross commissions?

19 A. That is false.

20 119. Q. That is false?

21 A. Yes.

22 120. Q. You thought TRP had entitlement to  
23 the gross commissions?

24 A. They do.

25 121. Q. You don't accept that they had to

1 pay the commissions to the agents?

2 A. It depends if you're asking me what  
3 the accounting treatment is. So, as a finance  
4 person, if you interpret everything, there's revenue  
5 that comes to the business, that is gross revenue,  
6 but then there is cost of the sale, cost of revenue  
7 that KPMG classified it, and that's the commissions.

8 122. Q. But you understood that TRP had an  
9 obligation in every case to pay that money to the  
10 agents, didn't you?

11 A. Yes, that is the cost of revenue.

12 123. Q. Did you know that TRP could not make  
13 use of the money until it was transferred into its  
14 operating account?

15 A. No.

16 124. Q. You've seen Mr. Gidamy's affidavit?

17 A. Yes.

18 125. Q. And he makes that statement. It's  
19 at paragraph 20(c) if you want to see it. You don't  
20 dispute that, do you?

21 A. It's not relevant.

22 126. Q. Pardon me?

23 A. It's not relevant.

24 127. Q. Well, that wasn't my question. You  
25 don't dispute his statement that TRP Realty could

1 not make use of the money until it was transferred  
2 into its operating account...

3 A. Wording it like that? Yes, I  
4 dispute that. The money was essentially an  
5 asset...the commissions are the assets of the  
6 business and they had a responsibility to pay the  
7 agents.

8 128. Q. Do you disagree that TRP Realty  
9 could not make use of the money until it paid it  
10 into its operating account?

11 A. I disagree with you. I mean, if  
12 they could...TRP could potentially just decide to  
13 not pay the agents. I'm not sure I understand the  
14 question.

15 129. Q. Do you know if there was ever a case  
16 prior to the receivership where they didn't pay the  
17 agents?

18 A. No idea. I'm not a lawyer.

19 130. Q. But you would know, as a lender and  
20 a shareholder, if there were claims against TRP for  
21 failing to pay the agents, wouldn't you?

22 A. Yes, it probably would come up at  
23 some point.

24 131. Q. And did it ever come up?

25 A. Not that I recall.

1 132. Q. So, again, do you recall any time  
2 prior to the receivership where TRP did not pay the  
3 agents their commission entitlement?

4 A. No, but that is a different question  
5 to what you're asking me.

6 133. Q. Were you provided regular reporting  
7 by TRP?

8 A. Yes.

9 134. Q. And am I right in understanding that  
10 one of these documents was something called the  
11 dashboard?

12 A. Yes, that is correct.

13 135. Q. I'm going to show you an e-mail...  
14 it's an e-mail string, actually. And you will see  
15 here there is an e-mail from somebody named Leslie  
16 Yu, Y-U. Do you see that?

17 A. I see that.

18 136. Q. On April 7th, 2017, and you're  
19 copied on it.

20 A. Yes.

21 137. Q. From April 7th, 2017. And there is  
22 an Excel spreadsheet appended at the back. And,  
23 Counsel, I'm happy to provide you with the  
24 electronic copy of it. And is this the type of...  
25 when we talk about the dashboard, is this the type

1 of document that you would regularly receive from  
2 TRP?

3 A. At some points, it was...it never  
4 became regular.

5 138. Q. Pardon me?

6 A. It never became a regular document.  
7 We...

8 139. Q. So how often...I apologize, I  
9 interrupted. What were you going to say?

10 A. I probably got...there were various  
11 incorrect versions of this document that were sent  
12 back and forth, and it was...it might have got to  
13 one document but it never ended up being finalized.  
14 Sanja had left. Leslie was in charge of this, and  
15 it's...yes, we never...this wasn't part of our  
16 future reporting, really.

17 140. Q. But you don't deny that this type of  
18 document was at least received occasionally then  
19 by...

20 A. We received it during this time, I  
21 guess, and it was probably around March and April...

22 141. Q. Right.

23 A. ...to try and create a dashboard,  
24 and then it became too difficult for them to do it  
25 again.

1           142.           Q.           Right.  And the purpose of the  
2                            dashboard was to provide you, as the lender, with a  
3                            snapshot in terms of what the company was doing,  
4                            fair?

5                            A.           Correct.

6           143.           Q.           And if we look at the Excel  
7                            spreadsheet, you've got set out what the deal  
8                            revenue is for each month, January '17...

9                            A.           Yes.

10          144.           Q.           ...February '17, March '17?

11                            A.           Yes.

12          145.           Q.           And an accounting here for the  
13                            gross profit of TRP, they've backed out the agent  
14                            commissions, didn't they?

15                            A.           Yes.

16          146.           Q.           And that was something that you, as  
17                            lender, would have been aware of in respect of how  
18                            they were accounting for it in this dashboard?

19                            A.           It's consistent with KPMG.

20          147.           Q.           And if I were to suggest to you that  
21                            they were telling you that the amounts that they had  
22                            to pay to agents wasn't their money, would you agree  
23                            with me?

24                            A.           No.

25          148.           Q.           We were talking about the KPMG audit

1 and restricted cash.

2 A. Okay.

3 149. Q. We had that discussion earlier.

4 A. Yes.

5 150. Q. And, as I understood what you were  
6 telling me earlier, the only money that Firepower  
7 took to be restricted was those funds that were  
8 purchaser deposits?

9 A. That is correct.

10 151. Q. That is correct. Okay. And I  
11 understood...you were talking about restricted cash,  
12 right?

13 A. For the purchaser deposits...

14 152. Q. Right.

15 A. ...in the KPMG accounts, yes.

16 153. Q. Right. Restricted cash in the  
17 purchaser deposits to KPMG.

18 A. Yes.

19 154. Q. If we go to your affidavit at  
20 Exhibit A we have the financial statement.

21 A. Okay.

22 155. Q. Sorry, let's take a step back. At  
23 paragraph 10 of your affidavit...

24 A. Yes.

25 156. Q. ...you make the following statement,



1           you say:

2                   "...Based on the 2015 audited financial  
3                   statements, it is clear that the debtors  
4                   did not treat any portion of their accounts  
5                   receivable as being held in trust for TRP  
6                   salespersons as they did with respect to  
7                   purchaser deposits being held by TRP  
8                   Realty..."

9                   A.           That is correct, yes.

10          157.           Q.           Okay. And I put it to you that the  
11                   audited financial statements only tell you what KPMG  
12                   was accounting for in respect of its process.

13                   A.           I don't understand what you mean.

14          158.           Q.           Well, there is nothing here from TRP  
15                   where it says specifically what they held in trust  
16                   or what they didn't hold in trust on the audit  
17                   financials, is there?

18                   A.           I disagree with you.

19          159.           Q.           Because of what is in restricted  
20                   cash?

21                   A.           Well, because of the statement that  
22                   KPMG has in the financials that is highlighted over  
23                   here, and then also Sanja's comments around what is  
24                   restricted cash and what is not restricted cash.

25          160.           Q.           Well, what I would suggest to you

1 is, all that the auditor is saying about restricted  
2 cash is amounts held in trust as required by various  
3 purchase and sale agreements which are separately  
4 disclosed as restricted cash, right? That is  
5 literally what it says.

6 A. Okay.

7 161. Q. All that it's saying is that amounts  
8 in deposit are being treated as trust and restricted  
9 cash, right?

10 A. Okay.

11 162. Q. It doesn't make any other statement  
12 that other funds are not held in trust, does it?

13 A. It's not. Like...as far as I read  
14 it, this is purchaser deposits that are held in  
15 trust.

16 163. Q. Right. But it doesn't make the  
17 negative statement that other monies are not in  
18 trust, does it?

19 A. Why would they need to?

20 164. Q. It doesn't make the statement that  
21 other money is not held in trust, does it?

22 A. Okay.

23 165. Q. You agree with that?

24 A. I agree with it.

25 166. Q. Right. And...

1                   A.        But, having said that, no auditor,  
2 particularly a tough auditor, would have signed off  
3 on anything but that, because if there were  
4 additional amounts held in trust, they would have  
5 to disclose that and report it accordingly in the  
6 financial statements.

7       167.           Q.        So, again, this comes back to you  
8 saying the only amounts that were ever impressed  
9 with a trust are the deposit accounts?

10                   A.        Yes.

11       168.           Q.        Okay. Are you familiar with  
12 cooperating brokers?

13                   A.        To some degree, yes, partially.

14       169.           Q.        Partially. And you read the  
15 receiver's report, right?

16                   A.        Yes.

17       170.           Q.        And the receiver talks about  
18 cooperating brokerages, doesn't he?

19                   A.        Yes.

20       171.           Q.        If you go to paragraph 48 of the  
21 receiver's report, it references a cooperation  
22 agreement. Do you see that?

23                   A.        Yes.

24       172.           Q.        And it talks about how, in the  
25 cooperation agreement, there was a trust provision.

1 Do you see that?

2 A. Yes.

3 173. Q. And if you turn to the next page,  
4 there is an excerpt from a commission trust  
5 agreement.

6 A. Okay.

7 174. Q. Have you read that?

8 A. I'm reading it now.

9 175. Q. Sure. Take your time.

10 A. Who is the cooperating brokerage?

11 176. Q. So, on a transaction where TRP is  
12 the listing broker and there is another broker who  
13 is on for the purchaser, that would be the  
14 cooperating broker.

15 A. Okay.

16 177. Q. All right. Just to situate this.

17 A. Okay.

18 178. Q. And if you want, you can take a look  
19 at the actual commission trust agreement. I will  
20 just find it here. At Exhibit H.

21 A. Okay.

22 179. Q. Have you seen this document before,  
23 "Confirmation of Cooperation and Representation"?

24 A. No, I have not.

25 180. Q. No? Do you want to go to page 4 of

1 4?

2 A. Okay.

3 181. Q. And you see here there is a section  
4 here that refers to a commission trust agreement?

5 A. Yes, yes.

6 182. Q. And if I were to suggest to you this  
7 is an obligation, a trust obligation for a TRP  
8 brokerage to pay to a cooperating brokerage its  
9 share of the commissions, is this new to you?

10 A. Yes, this is new to me. I can  
11 double-check my notes. I mean...

12 183. Q. Well...

13 A. I don't know...yes. I'm not very  
14 familiar with how all these things work, but, yes...

15 184. Q. Sure. But you can't tell me...and,  
16 in fact, based on your earlier answer, you told me  
17 that the only restricted cash was the deposit cash,  
18 right?

19 A. I can tell you it wasn't the  
20 commissions.

21 185. Q. Pardon me?

22 A. I can tell you, as far as I  
23 understand, it wasn't agents...the sales...the agent  
24 commissions.

25 186. Q. Right. So if there was a trust in

1 favour of the cooperating broker...

2 A. M'hmm.

3 187. Q. If there was a trust in favour of  
4 the cooperating broker...

5 A. Okay.

6 188. Q. ...that wouldn't be included in the  
7 restricted cash, would it?

8 A. If there was a trust with a  
9 cooperating broker, it probably would.

10 189. Q. It probably would?

11 A. It probably would.

12 190. Q. You just told me that the only  
13 amounts that you thought were restricted cash were  
14 deposits.

15 A. I said as far as I'm aware.

16 191. Q. Right.

17 A. So...yes.

18 192. Q. So as we looked at at the  
19 financials, you don't know what is part of  
20 restricted cash and what is not part of restricted  
21 cash, do you?

22 A. I do know that commissions are not  
23 part of restricted cash because of what the company  
24 has told me and from what I understand on the  
25 KPMG...

1 193. Q. But you don't know whether the  
2 cooperating broker's money are restricted cash or  
3 not?

4 A. It says specifically as it relates  
5 to cooperating brokers...as you have shown me in  
6 these documents, I will check on that, and as  
7 far...it could be restricted cash on that portion.  
8 So there's three parts to this: purchaser deposits,  
9 there's cooperating broker stuff, which you have  
10 highlighted to me, and there's agents of TheRedPin.

11 194. Q. One, I'm not asking you to check.  
12 I'm asking, as we sit here today, you don't know  
13 whether the cooperating brokers' amounts are part of  
14 restricted cash or part of the other cash, do you?

15 A. So, from what you're telling me and  
16 from what I'm reading, they appear to be part of  
17 restricted cash.

18 195. Q. So you're changing your answer from  
19 earlier today?

20 A. I'm putting it...no, not  
21 necessarily. I have...there's three buckets that  
22 we're talking about here, okay? So we have  
23 restricted cash, which, as far as I understood  
24 before, is purchaser deposits...and I can check...  
25 you know, I can have a look. On the e-mail from

1 Sanja, maybe it was listed here. And I said to you  
2 I will confirm on the cooperating brokerage side.  
3 But I do know that they are not deposits...they are  
4 not restricted cash as it relates to the agents.

5 196. Q. As it relates to the TRP agents?

6 A. Yes.

7 197. Q. So you're changing your evidence to  
8 say that the only thing you know is restricted cash  
9 does not include TRP agent money?

10 MR. CHAITON: He said he will check the  
11 rest. We can undertake to do that and come  
12 back to the answer.

13 198. MR. GOLDBLATT: No, I'm not asking for  
14 the undertaking.

15 MR. CHAITON: Okay.

16 199. MR. GOLDBLATT: If you want to look for  
17 a document if that helps you...why don't we  
18 go off the record.

19

20 --- DISCUSSION OFF THE RECORD

21

22 BY MR. GOLDBLATT:

23 200. Q. So you were going to advise me  
24 whether you could clarify whether or not the  
25 restricted cash included cooperating broker amounts



1 or not?

2 A. Yes. So what I'm saying is that I  
3 can have a look at my records and see what...  
4 cooperating brokers.

5 201. Q. But, as we sit here today, you don't  
6 know?

7 A. I said to you I will get back to  
8 you, yes.

9 202. Q. Right. But you made the statement  
10 in your affidavit that there were no other trusts,  
11 other than deposits, right?

12 A. Affidavits are what I believe to be  
13 true, so...

14 203. Q. Pardon me?

15 A. My affidavit is what I believe to be  
16 true. You're pointing out something that is new to  
17 me, which I said I will get back to you on.

18 204. Q. Would you agree with me that, if the  
19 cooperating broker amounts are part of the accounts  
20 receivable, then there is a trust over some portion  
21 of the accounts receivable?

22 MR. CHAITON: That is a...isn't that a  
23 hypothetical? You said "if it is".

24 205. MR. GOLDBLATT: Right.

25 MR. CHAITON: He is telling you that, in

1 his opinion, it's not.

2

3 BY MR. GOLDBLATT:

4 206. Q. Do you dispute the fact that there  
5 is a trust in favour of cooperating broker amounts?

6 A. I said I will get back to you.

7 207. MR. GOLDBLATT: No, no, that is a  
8 different question though. I'm asking,  
9 Counsel, do you dispute the fact that there  
10 was a trust over the cooperating broker  
11 amounts?

12 MR. CHAITON: I will let you know.

13 I haven't finalized my view on that.

U/T

14 208. MR. GOLDBLATT: Okay. And then I will  
15 put the next question on the record. If  
16 you refuse it, fine. To the extent you  
17 agree there is a trust over the cooperating  
18 broker amounts, I want to know whether or  
19 not you agree that then the accounts  
20 receivable had, as part of it, amounts  
21 impressed with a trust.

22 MR. CHAITON: We will give you a final  
23 answer in due course, but, as far as I'm  
24 concerned, and I know you're not asking me  
25 the question, that is part of the deposit

1 money. You're talking about the same pot  
2 of funds; it's not a separate item. U/T

3 209. MR. GOLDBLATT: Okay.

4

5 BY MR. GOLDBLATT:

6 210. Q. You have put in parts...not parts,  
7 but a slide deck at Exhibit B.

8 A. Yes.

9 211. Q. And, as I understand your evidence,  
10 you refer to a slide at page 13...

11 A. Yes.

12 212. Q. ...in respect to gross receivables.

13 And what you say in your affidavit at paragraph 11  
14 is that the dotted lines imply that there would be  
15 security against the gross receivables of TRP.

16 A. Yes, that is what I understand.

17 213. Q. And you would agree with me, nowhere  
18 on this slide does it make that statement, does it?

19 A. No. That is my interpretation of  
20 the slide.

21 214. Q. Right. But it doesn't actually say  
22 that on this slide?

23 A. I think it's pretty obvious.

24 215. Q. It doesn't actually say it on this  
25 slide.

1                   A.       It's, like, impossible to...I don't  
2 know how anyone with a rational mind would interpret  
3 it differently.

4       216.           Q.       But it doesn't say anything about  
5 security anywhere here, does it?

6                   A.       I'm not changing my answer.

7       217.           Q.       Pardon me?

8                   A.       Anyone of rational mind who is a  
9 finance person, I don't know how they would  
10 interpret it any differently.

11       218.           Q.       So your evidence is that anyone of  
12 rational mind would look at the dotted lines and say  
13 that means security and trust over the 11 million in  
14 receivables?

15                   A.       I think...to me, that would be  
16 implied.

17       219.           Q.       Okay. You've put in an AR analysis  
18 at Exhibit D to your affidavit?

19                   A.       Yes.

20       220.           Q.       Am I right in thinking these are all  
21 documents that were delivered to Firepower at the  
22 time that the advance was made in 2017?

23                   A.       Yes, I guess in and around then...  
24 before and up to.

25       221.           Q.       Okay. And again you have a note

1 here about restricted cash?

2 A. Yes.

3 222. Q. And would you agree with me...and we  
4 don't have to cover this again...there's the same  
5 notation about restricted cash in respect of deposit  
6 funds only; isn't it?

7 A. Yes.

8 223. Q. And there's no statement about any  
9 other forms of restricted cash and any other trust  
10 considerations, is there?

11 A. As far as I know, no.

12 224. Q. At paragraph 17 of your affidavit...

13 A. Okay.

14 225. Q. ...you swear that:

15 "...The debtors [there's no name ascribed  
16 to it] represented that the gross trade  
17 receivables it was scheduled to receive was  
18 entirely their property and available to be  
19 margined by Comerica Bank..."

20 A. Yes.

21 226. Q. Do you see that statement?

22 A. M'hmm.

23 227. Q. You don't have that statement in  
24 writing anywhere, do you?

25 A. What do you mean?

1           228.           Q.           You don't have any statement  
2                           anywhere in writing where somebody from TRP said  
3                           that the gross trade receivables was entirely their  
4                           property?

5                           A.           I attached the exhibit with the  
6                           borrowing base calculation.

7           229.           Q.           Right. And the borrowing base  
8                           calculation nowhere makes the statement that the  
9                           entirety of the receivables are the property of TRP,  
10                          does it?

11                          MR. CHAITON:       Sorry, Counsel, are you  
12                          saying express written words to that  
13                          effect?

14           230.           MR. GOLDBLATT:     Yes.

15                          THE DEPONENT:     Well, the numbers are the  
16                          gross.

17

18           BY MR. GOLDBLATT:

19           231.           Q.           And the numbers don't say anything  
20                           other than, "Here is what the gross receivable is."

21                          A.           Then the numbers would be different.  
22                          I don't understand how the math would work  
23                          otherwise.

24           232.           Q.           But you don't have any statement,  
25                           any express statement where somebody from TRP says

1 that the gross trade receivables was entirely their  
2 property.

3 A. So, in my mind, someone has placed a  
4 document to an ABL lender showing receivables and a  
5 number there...and various numbers there that are  
6 all gross receivables. So that says to me that  
7 is...what they're undertaking is true.

8 233. Q. So if you look at...

9 A. And there is a...I'm sure there was  
10 something on the document which said it represented  
11 warranty...that that is correct.

12 234. Q. At Exhibit F, which is the document  
13 you're talking about, it sets out the new build  
14 accounts receivables and the other receivables,  
15 right?

16 A. Yes.

17 235. Q. It makes no statement here in  
18 respect of the ownership of that asset.

19 A. The loan documents...as far as I  
20 understand, the loan documents...

21 236. Q. Show me where on the page it makes  
22 any statement with regard to the ownership of that  
23 asset.

24 A. Well, this is...the loan document is  
25 not here, but the numbers that they're presenting as

1 receivables, that means that the company owns it.

2 237. Q. And subject to whether or not there  
3 is trust?

4 MR. CHAITON: That is a debate. We can  
5 ask...

6 238. MR. GOLDBLATT: Right.

7 MR. CHAITON: And he is telling you how  
8 he interprets the document...

9 239. MR. GOLDBLATT: Right.

10 MR. CHAITON: ...and what it's telling  
11 him, even though it's not in actual words,  
12 it's in numbers.

13

14 BY MR. GOLDBLATT:

15 240. Q. So this is...when you say the  
16 debtors made the representation that they owned the  
17 gross trade receivables, that is your interpretation  
18 based on the document?

19 A. Yes.

20 241. Q. Okay. But we agree it doesn't  
21 actually say that; it's your interpretation of the  
22 document?

23 A. You're a lawyer, I'm a numbers guy.  
24 The numbers to me say what it is. Like, you...  
25 otherwise, the numbers would be different.



1           242.           Q.           Right.  But...

2                           A.           Someone signed the numbers.

3           243.           Q.           ...you're drawing the conclusion  
4           from the numbers that it's a representation that  
5           it's a receivable?

6                           A.           Yes.

7           244.           Q.           You would agree with me that each  
8           lender would make a determination for itself as to  
9           what metrics it believes are appropriate for  
10          consideration with regard to the quantum to be  
11          advanced?

12                          A.           Yes, this is true.

13          245.           Q.           Some lenders will advance based on  
14          the AR, some will advance based on profit?

15                          A.           M'hmm.

16          246.           Q.           And each lender will make their own  
17          determination?

18                          A.           Correct.

19          247.           Q.           At paragraph 18...and maybe this is  
20          similar to the last question...you refer to somebody  
21          named Keith McSpurren.

22                          A.           Yes.

23          248.           Q.           Are you familiar with Mr. McSpurren?

24                          A.           Yes.

25          249.           Q.           And you say that he represented that

1 the total gross trade receivables were the property  
2 of TRP Realty? Do you see that statement?

3 A. Yes.

4 250. Q. And again, you would agree with me  
5 that that specific statement is not in Exhibit G  
6 that you have attached to this, is it?

7 A. Again, I don't know how you would  
8 interpret anything different.

9 251. Q. Point me to the statement where he  
10 says that the gross trade receivables are the  
11 property of TRP Realty.

12 A. He is talking about borrowing  
13 against seven gross to that. That seven gross  
14 today, they're borrowing...any...any lender is  
15 lending against assets of the business. So we're  
16 lending against, whether it's Comerica or ourselves,  
17 receivables, and it's pretty clear that Keith runs  
18 their receivables, are an important factor of  
19 advancing a loan, whether, in this case, it's with  
20 Comerica, and the calculation is whether Comerica  
21 should advance more money. And he is saying, based  
22 on where the gross receivables are and will be, he  
23 thinks that they will.

24 252. Q. So again, this is your  
25 interpretation of what is in the e-mail from Mr.

1 McSpurren?

2 A. Again, help me find a rational  
3 person that would interpret that...interpret it any  
4 other way.

5 253. Q. But rational in what, the grand  
6 scheme of the universe, or rational in terms of  
7 financial, or rational in terms of how Mr. McSpurren  
8 may have expressed himself?

9 A. In terms of any simple...this is  
10 just...I'm not sure how else you could interpret  
11 this.

12 254. Q. But what he was telling you is, at  
13 the time, there was only \$100,000 in the bank,  
14 right?

15 A. That is a full cost, yes.

16 255. Q. Pardon me?

17 A. That is a...so, as far as I read  
18 it...

19 256. Q. The second-last paragraph.

20 A. Yes...yes.

21 257. Q. And were you concerned at all that,  
22 with receivables of \$5.5 million, there's \$100,000  
23 in the bank?

24 A. Yes, we wanted the companies to  
25 survive. That is why we were trying to find out

1 where the additional money is coming from.

2 258. Q. But you don't recall looking at the  
3 bank statements and seeing where the money is going?

4 A. He told me the \$100,000 is there.  
5 I didn't need to go to the bank statement to verify  
6 that. I'm not sure I understand your question.

7 259. MR. GOLDBLATT: Off the record for a  
8 minute.

9

10 --- DISCUSSION OFF THE RECORD

11

12 BY MR. GOLDBLATT:

13 260. Q. At paragraph 3 of your affidavit...

14 A. Yes.

15 261. Q. ...you provided a summary in respect  
16 of the business of TRP Realty. Do you see that?

17 A. M'hmm.

18 262. Q. And you say that:

19 "...It primarily derived its revenue from  
20 real estate commissions earned on the  
21 closing of leasing of purchase and sale  
22 transactions..."

23 Do you see that?

24 A. Yes.

25 263. Q. And you would agree with me that you

1 don't make any reference to pre-construction deals,  
2 do you?

3 A. I mean, it is...yes.

4 264. Q. Pardon me?

5 A. I was just thinking, like, a  
6 pre-construction is a purchase and the sale  
7 transaction in the future.

8 265. Q. So you consider a pre-construction  
9 deal to be a purchase and sale, a part of that?

10 A. What do you mean?

11 266. Q. Well, I want to understand your  
12 evidence.

13 A. If you want my understanding of the  
14 business...

15 267. Q. Yes.

16 A. ...they are a real estate brokerage,  
17 that some of their deals which are just regular  
18 condos and houses that are already standing, and  
19 some of their deals which are pre-construction.

20 268. Q. Did you know what percentage,  
21 roughly, of the TRP work revenue was in the  
22 pre-construction area?

23 A. I probably did when I went back,  
24 yes.

25 269. Q. As we sit here today, you don't

1 know?

2 A. I don't know offhand, no.

3 270. MR. GOLDBLATT: Off the record.

4

5 --- DISCUSSION OFF THE RECORD

6

7 271. MR. GOLDBLATT: I have no further  
8 questions, subject to the answers to  
9 undertakings.

10 MR. CHAITON: Okay. Thank you.

11 272. MR. GOLDBLATT: Okay. Before we leave,  
12 I want to mark...do you care if I mark this  
13 as an exhibit?

14 MR. CHAITON: Go ahead.

15

16 --- EXHIBIT NO. 1: E-mail string from Leslie Yu, copied  
17 to Mr. Kalish, dated April 7, 2017

18

19 --- upon adjourning at 2:55 p.m.

INDEX OF EXHIBITS

1 2 3 4 5 6 7 8	EXHIBIT NUMBER	DESCRIPTION	PAGE NUMBER
	1	E-mail string from Leslie Yu, copied to Mr. Kalish, dated April 7, 2017	51

INDEX OF UNDERTAKINGS

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**TAB A**

Exhibit #1

**Jordan Goldblatt**

---

**From:** Tarik Gidamy <tarik@iriserealty.com>  
**Sent:** Thursday, October 11, 2018 10:34 AM  
**To:** Jordan Goldblatt  
**Subject:** Fwd: Salary breakdown & Revised Dashboard  
**Attachments:** Dashboard (2017-04-07).xlsx; TRP Payroll Breakdown 2017.xlsx



**Tarik Gidamy**  
**President / Broker of Record iRise, Brokerage**  
Founder |TheRedPin  
Office: (416)-203-2715  
Mob: (416) 826-6551  
Fax#: (416) 907-1841  
**tarik@iRiseRealty.com**

----- Forwarded message -----

**From:** Leslie Yu <leslie@theredpin.com>  
**Date:** Fri, Apr 7, 2017 at 2:06 PM  
**Subject:** Re: Salary breakdown & Revised Dashboard  
**To:** Tiffany Li <tli@firepowercapital.com>  
**Cc:** Tarik Gidamy <tarik@theredpin.com>, Jared Kalish <jkalish@firepowercapital.com>

Hi Tiffany,

Please find attached revised dashboard. Here are the following changes:

1. Other Direct/Indirect Sales Expense (Row 22) has been revised to reflect the correct amount (it was previously referencing the wrong cell)
2. Interest paid out (row 35) has been updated to only include Comerica monthly interest
3. Cash paid out (row 34) has also been updated, to clarify, this includes any hst payments made during the period.
4. Closing net AR (row 45) is updated & correct, both row 45 & 46 now add to row 40

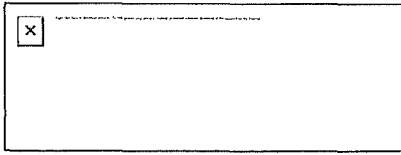
I've also attached the breakdown of salaries by departments.

This should be sufficient to your requests, let me know if you need anything further.

Thanks.

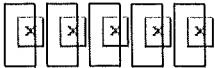
Regards,

Leslie



**Leslie Yu**  
Accounting Manager | Finance  
5 Church Street  
Toronto, ON M5E 1M2  
Office: (416) 800-0812 ext. 419  
Fax: (416) 551-9599

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On Fri, Apr 7, 2017 at 12:19 PM, Tiffany Li <[tli@firepowercapital.com](mailto:tli@firepowercapital.com)> wrote:

Hi Leslie,

On the updated Dashboard for March, and there are a few items we would like to clarify. Can I give you a quick phone call to discuss? Thanks

Tiff.

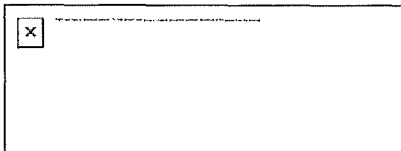
**From:** Leslie Yu [mailto:[leslie@theredpin.com](mailto:leslie@theredpin.com)]  
**Sent:** April 6, 2017 1:20 PM  
**To:** Tiffany Li  
**Cc:** Tarik Gidamy  
**Subject:** Re: Salary breakdown

Hi Tiffany,

Sure I'll work on that and send it over hopefully by end of day or early tomorrow.

Regards,

Leslie

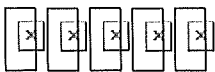


**Leslie Yu**  
Accounting Manager | Finance  
5 Church Street  
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Fax: (416) 551-9599

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On Thu, Apr 6, 2017 at 1:15 PM, Tiffany Li <[tli@firepowercapital.com](mailto:tli@firepowercapital.com)> wrote:

Hi Leslie,

Hope all is well, can you send us the detailed salary&wages breakdown (per employee) for TRP Inc and TRP Realty for January and February 2017? Thanks.

Best,

**Tiffany Li**  
Analyst, Private Capital

FirePower Capital  
[www.firepowercapital.com](http://www.firepowercapital.com)

(P) [\(647\) 260-4986](tel:6472604986)  
(C) [\(416\) 319-8692](tel:4163198692)  
[tli@firepowercapital.com](mailto:tli@firepowercapital.com)



*NOTE: This e-mail message, and any attachments, is intended only for the named recipient(s) above and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you have received this message in error, or are not the named recipient(s), please immediately notify the sender and delete this e-mail message. Thank you.*

	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16
Deal Revenue	\$ 450,054	\$ 658,108	\$ 916,631	\$ 1,082,824	\$ 1,206,410	\$ 1,506,053	\$ 1,186,200
# of deals (excl leases)	50	76	114	105	119	151	121
# of leases	16	26	21	35	31	29	44
# of Agents							

	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17
Deal Revenue	\$ 793,305	\$ 750,293	\$ 1,293,614				
Mortgage Revenue		\$ 11,905	\$ 15,938				
# of deals (ex leases)	64	64	97				
# of leases	21	19	29				
# of agent owned deals	28	36	43				
# of TRP deals	36	28	54				
# of agents	98	98	99				
"Agents own" Revenue	\$ 382,613	\$ 415,139	\$ 541,318				
"TRP" Revenue	\$ 410,692	\$ 335,154	\$ 752,296				
Deal Revenue	\$ 793,305	\$ 750,293	\$ 1,293,614				
Mortgage Revenue		\$ 11,905	\$ 15,938				
Less: Agent Comm.	\$ (391,655)	\$ (393,376)	\$ (412,597)				
Less: Other Direct/Indirect Sales Expense	\$ (87,572)	\$ (80,564)	\$ (93,650)				
Gross Profit	\$ 314,078	\$ 288,258	\$ 803,304	\$ -	\$ -	\$ -	\$ -
Gross Margin	39.6%	38.4%	62.1%	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
Operating Expenses	\$ (441,806)	\$ (431,488)	\$ (427,740)				
Salesforce&other expenses	\$ (28,138)	\$ (28,767)	\$ (28,683)				
Financing expenses		\$ (257,200)					
EBITDA	\$ (155,866)	\$ (429,198)	\$ 346,882	\$ -	\$ -	\$ -	\$ -
Opening Cash Balance	\$ 116,319	\$ 107,285	\$ 1,464,185				

Cash collected	\$ 1,139,517	\$ 587,394	\$ 824,255						
Cash comm. To Agents	\$ (623,035)	\$ (305,759)	\$ (497,813)						
Cash paid out	\$ (506,135)	\$ 1,100,811	\$ (696,885)						
Interest paid out	\$ (19,380)	\$ (25,546)	\$ (5,964)						
Closing Cash Balance	\$ 107,285	\$ 1,464,185	\$ 1,087,779	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Net change in cash	\$ (9,035)	\$ 1,356,901	\$ (376,406)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Opening Total AR	\$ 6,588,883	\$ 6,481,794	\$ 6,186,040						
Closing Total AR (invoiced)	\$ 6,481,794	\$ 6,186,040	\$ 6,185,325						
Closing Total AR (to be invoiced)	\$ 508,153	\$ 663,112	\$ 479,360						
Closing Total AR (incl. to be invoiced)	\$ 6,989,948	\$ 6,849,152	\$ 6,664,685	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Opening Net AR to TRP (excl. to be invoiced)	\$ 3,599,912	\$ 3,802,637	\$ 3,211,041						
Closing Net AR to TRP (excl. to be invoiced)	\$ 3,802,637	\$ 3,211,041	\$ 3,465,842						
Closing Agent Liability (excl. to be invoiced)	\$ (2,679,157)	\$ (2,974,999)	\$ (2,719,483)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Expected Closing AR to TRP (incl. amount to be invoiced)	\$ 3,960,528	\$ 3,655,074	\$ 3,884,365	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -



Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	2016
\$ 814,916	\$ 1,011,805	\$ 1,065,186	\$ 1,199,741	\$ 806,417	\$ 11,904,344
80	97	98	109	61	1181
43	27	24	16	25	337
					#DIV/0!

Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	YTD 2017
					\$ 2,837,212

					225
					69
					107
					118
					98.33333333
					\$ 1,339,069
					\$ 1,498,143
					\$ 2,837,212
					\$ (1,197,627)
					\$ (261,787)
\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,405,640
#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	49.5%

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FIREPOWER DEBT GP INC., AS AGENT  
Applicant

-and- THEREDPIN, INC. et al.  
Respondents

Court File No. CV-18-59964400CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
TORONTO

**JOINT SUPPLEMENTARY RECORD**

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Lawyers for the TRP Agents

RCP-E 4C (May 1, 2016)

FIREPOWER DEBT GP INC., AS AGENT  
Applicant

-and- THEREDPIN, INC. et al.  
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RCP-E 4C (May 1, 2016)